AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Federal Register

2–17–09 Tuesday
Vol. 74 No. 30 Feb. 17, 2009

Pages 7285–7548

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Tuesday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.federalregister.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** *www.gpoaccess.gov/nara,* available through GPO Access, is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

For more information about GPO Access, contact the GPO Access User Support Team, call toll free 1-888-293-6498; DC area 202-512-1530; fax at 202-512-1262; or via e-mail at *gpoaccess@gpo.gov.* The Support Team is available between 7:00 a.m. and 9:00 p.m. Eastern Time, Monday–Friday, except official holidays.

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Printing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 74 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**

General online information **202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	**202–741–6005**
Assistance with Federal agency subscriptions	**202–741–6005**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.

2. The relationship between the Federal Register and Code of Federal Regulations.

3. The important elements of typical Federal Register documents.

4. An introduction to the finding aids of the FR/CFR system.

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

WHEN: Tuesday, February 24, 2009
9:00 a.m.–12:30 p.m.

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

RESERVATIONS: (202) 741–6008

Printed on recycled paper.

Contents

Federal Register

Vol. 74, No. 30

Tuesday, February 17, 2009

Agency for International Development
NOTICES
Meetings:
Advisory Committee on Voluntary Foreign Aid, 7390
Board for International Food and Agricultural Development, 7390–7391

Agriculture Department
See Forest Service

Air Force Department
NOTICES
Meetings:
US Air Force Academy Board of Visitors, 7401
Privacy Act; Systems of Records, 7401–7402

Alcohol and Tobacco Tax and Trade Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 7543–7544

Army Department
See Engineers Corps
NOTICES
Non-Exclusive, Exclusive, or Partially Exclusive Licensing:
U.S. Patent Concerning Polarization Correlation Signal Processing for Ladars and Radars; Availability, 7404
Privacy Act; Systems of Records, 7404–7405

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Centers for Disease Control and Prevention
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 7441–7442
Meetings:
Board of Scientific Counselors, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry, 7442

Children and Families Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 7442–7445

Coast Guard
RULES
Drawbridge Operation Regulations:
Gulf Intracoastal Waterway, St. Petersburg Beach and South Pasadena, FL, 7313–7314
NOTICES
Meetings:
Ambassador Bridge Enhancement Project, Detroit River, Detroit, MI and Windsor, ON, Canada, 7458–7459

Commerce Department
See Foreign–Trade Zones Board
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration

Committee for the Implementation of Textile Agreements
NOTICES
Determination under the Textile and Apparel Commercial Availability Provision of the Dominican Republic–Central America–United States Free Trade Agreement (CAFTA–DR Agreement), 7396–7397

Defense Department
See Air Force Department
See Army Department
See Engineers Corps
See Navy Department

Department of Transportation
See Pipeline and Hazardous Materials Safety Administration

Drug Enforcement Administration
PROPOSED RULES
Schedules of Controlled Substances: Placement of Tapentadol into Schedule II, 7386–7388
NOTICES
Importer of Controlled Substances, 7476
Importer of Controlled Substances; Notice of Registration, 7476–7477
Manufacturer of Controlled Substances; Notice of Registration, 7477

Employee Benefits Security Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 7478–7479

Employment and Training Administration
NOTICES
Solicitation for Grant Applications:
Advancing Registered Apprenticeship into the 21st Century Collaborating for Success, 7480

Energy Department
See Federal Energy Regulatory Commission

Engineers Corps
NOTICES
Environmental Impact Statements; Intent:
Proposed Honolulu Seawater Air Conditioning Project, Honolulu, O'ahu, Hawai'i, 7402–7404
Proposed Northern Integrated Supply Project in Northeastern Colorado, 7406
Meetings:
Board on Coastal Engineering Research, 7406

Environmental Protection Agency
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 7428–7433

Executive Office of the President
See Trade Representative, Office of United States

Federal Aviation Administration
RULES
Airworthiness Directives:
Pratt & Whitney PW4090 and PW4090 3 Turbofan Engines, 7304–7306
Rolls-Royce Corporation AE 3007A1E and AE 1107C Turbofan/Turboshaft Engines, 7309–7310
Turbomeca Turmo IV A and IV C Series Turboshaft Engines, 7310–7313
Wytwornia Sprzetu Komunikacyjnego ''PZL–Rzeszow'' S.A. PZL–10W Turboshaft Engines, 7306–7308
PROPOSED RULES
Airworthiness Directives:
Saab Model 340A (SAAB/SF340A) and SAAB 340B Airplanes, 7384–7385
NOTICES
Meetings:
Aircraft Secondary Barriers (Special Committee 221), 7533–7534
RTCA Government/Industry Air Traffic Management Advisory Committee, 7534
Petitions for Exemption:
Summary of Petitions Received, 7534–7535

Federal Communications Commission
RULES
Unlicensed Operation in the TV Broadcast Bands, 7314–7332
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 7433–7434
Meetings:
Consumer Advisory Committee, 7435

Federal Election Commission
RULES
Reporting Contributions Bundled by Lobbyists, Registrants and the PACs of Lobbyists and Registrants, 7285–7304
NOTICES
Price Index Increases for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold, 7435–7437

Federal Emergency Management Agency
NOTICES
Agency Information Collection Activities: Proposed Collection; Comment Request, 7459–7461
Disaster and Related Determinations:
Washington, 7461
Disaster Declarations:
Iowa, 7461–7462
Texas, 7462
Washington, 7462–7463
Emergency and Related Determinations:
Arkansas, 7463
Kentucky, 7463–7464
Missouri, 7464
Emergency Declarations:
Arkansas, 7464–7465
Kentucky, 7465
Maine, 7465

Federal Energy Regulatory Commission
NOTICES
Applications:
Alaska Village Electric Cooperative, 7411
Cortez, CO, 7411–7412
Quincy, IL, 7412
Ruby Pipeline, L.L.C., 7412–7413
Southern California Edison Co., 7413–7414
Combined Notice of Filings, 7414–7423
Complaints:
Cottonwood Energy Company, LP v. Entergy Gulf States, Inc., 7424
Western Refining Southwest, Inc., et al., 7424
Dismissing Motions to Intervene:
Pacific Gas and Electric Co. et al., 7424–7425
Effectiveness of Surrender of Certificate and Termination of Proceeding:
Alaskan Northwest Natural Gas Transportation Co., 7425
Filings:
Bay Gas Storage Company, Ltd., 7425
Coons, Rick D.; Thompson, Keith M, 7425–7426
Great Bay Power Marketing; Great Bay Hydro Corp., 7426
Humble Gas Pipeline Co., 7426
North American Electric Reliability Corp., 7426–7427
Western Area Power Administration, 7427
Meetings:
Rockies Express Pipeline LLC; Technical Conference, 7427
Petition for Approval of Rates:
Crosstex Mississippi Pipeline, L.P., 7427–7428

Federal Highway Administration
NOTICES
Final Federal Agency Actions on Proposed Highway in North Carolina, 7535–7536
Surface Transportation Project Delivery Pilot Program:
Caltrans Audit Report, 7536–7541

Federal Housing Enterprise Oversight Office
RULES
Flood insurance; Correction, 7304

Federal Housing Financing Agency
RULES
Flood insurance; Correction, 7304
NOTICES
Annual Adjustment of the Cap on Average Total Assets that Defines Community Financial Institutions, 7438

Federal Railroad Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 7541–7542

Federal Reserve System
NOTICES
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 7438–7439

Federal Retirement Thrift Investment Board
NOTICES
Meetings; Sunshine Act:
Change in Agenda, 7439

Federal Transit Administration
PROPOSED RULES
Contractor Performance Incentives for the Capital Investment Program, 7388–7389
Major Capital Investment Projects, 7388

Fish and Wildlife Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 7468–7469

Environmental Impact Statement; Intent:
Idaho Forestry Program; Scoping Meetings, 7469–7471
Fee Collection at Tualatin River National Wildlife Refuge, OR, 7471–7472

Food and Drug Administration
NOTICES
International Conference on Harmonisation:
Draft Guidance on S9 Nonclinical Evaluation for Anticancer Pharmaceuticals; Availability, 7445–7446
International Conference on Harmonisation:
Draft Guidance on Q4B Evaluation and Recommendation of Pharmacopoeial Texts, Uniformity of Dosage Units, etc., 7449–7450
Draft Guidance on Q4B Evaluation and Recommendation of Pharmacopoeial Texts; Dissolution Test, etc., 7447–7448
Draft Guidance on Q4B Evaluation and Recommendation of Pharmacopoeial Texts; Sterility Test, etc., 7446–7447
Phonetic Orthographic Computer Analysis Software Program for Review of Proprietary Drug and Biologic Names; Availability, 7450

Foreign Assets Control Office
NOTICES
Additional Designations:
Foreign Narcotics Kingpin Designation Act, 7544–7546
Unblocking of Specially Designated Narcotics Trafficker Pursuant to Executive Order (12978), 7546–7547

Foreign–Trade Zones Board
NOTICES
Applications, Hearings, Determinations:
Newark, New Jersey Area, FTZ 49, 7392–7393

Forest Service
NOTICES
Meetings:
Davy Crockett National Forest Resource Advisory Committee, 7391
Rogue/Umpqua Resource Advisory Committee, 7391
New Fee Sites:
Federal Lands Recreation Enhancement Act, (Title VIII, Pub. L. 108–447), 7391–7392

General Accountability Office
NOTICES
Publication of Volume III of GAO's 'Principles of Federal Appropriations Law', 7440

General Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 7439–7440

Health and Human Services Department
See Centers for Disease Control and Prevention
See Children and Families Administration
See Food and Drug Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration
NOTICES
Solicitation of Written Comments on Draft Strategic National Vaccine Plan; Extension of Period for Public Comments, 7440

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency
NOTICES
Meetings:
The National Infrastructure Advisory Council, 7456–7457
Update of CIPAC Council Membership:
Critical Infrastructure Partnership Advisory Council, 7457–7458

Housing and Urban Development Department
See Federal Housing Enterprise Oversight Office
RULES
Civil Money Penalties:
Certain Prohibited Conduct; Technical Correction, 7313
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 7465–7466
Announcement of Funding Awards:
Section 4 Capacity Building for Community Development and Affordable Housing Program (FY 2008), 7466–7467

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Park Service
NOTICES
Central Utah Completion Act, 7467

Internal Revenue Service
NOTICES
Meetings:
Art Advisory Panel, 7547

International Trade Administration
NOTICES
Antidumping:
Gray Portland Cement and Clinker from Mexico, 7393–7394
Welded Carbon Steel Pipe and Tube from Turkey, 7394
Applications for Duty-Free Entry of Scientific Instruments, 7394–7395
Countervailing Duty:
Dynamic Random Access Memory Semiconductors from the Republic of Korea, 7395–7396

International Trade Commission
NOTICES
Import Investigations:
Semiconductor Chips with Minimized Chip Package Size and Products, 7474–7475

Justice Department
See Drug Enforcement Administration
See Justice Programs Office
NOTICES
Consent Decree:
Frontier Refining Inc. and the Frontier El Dorado Refining Co., 7475
Pacific Northern Environmental Corp., dba Dedicated Fuels, Inc., 7476
United States, et al. v. Hermes Consolidated, Inc. dba Wyoming Refining Co., 7476

Justice Programs Office
NOTICES
Meetings:
Federal Advisory Committee on Juvenile Justice, 7477–7478

Labor Department
See Employee Benefits Security Administration
See Employment and Training Administration
NOTICES
Interim Delegation of Authority and Assignment of Responsibility to Departmental Officials to Invoke Governmental Privileges, etc., 7478

Land Management Bureau
NOTICES
Survey Plat Filing:
Montana, 7472

National Foundation on the Arts and the Humanities
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 7480–7481

National Institute of Standards and Technology
NOTICES
Meetings:
Project 25 Compliance Assessment Program: Creating Software Test Tool Validation Process for Participating Laboratories, 7397–7398

National Institutes of Health
NOTICES
Meetings:
Eunice Kennedy Shriver National Institute of Child Health & Human Development, 7450–7451
National Cancer Institute, 7451–7452
National Cancer Institute; Amended, 7450, 7452
National Center for Complementary & Alternative Medicine, 7452–7453
National Human Genome Research Institute, 7453
National Institute of Allergy and Infectious Diseases, 7453
National Institute of Arthritis and Musculoskeletal and Skin Diseases, 7454
National Institute of Diabetes and Digestive and Kidney Diseases, 7454
National Institute of General Medical Sciences, 7453
National Institute on Deafness and Other Communication Disorders, 7455
National Institute on Deafness and Other Communication Disorders, 7454–7455

National Oceanic and Atmospheric Administration
RULES
Fisheries of the Exclusive Economic Zone Off Alaska:
2009 and 2010 Final Harvest Specifications for Groundfish, 7333–7359
Bering Sea and Aleutian Islands; 2009 and 2010 Harvest Specifications for Groundfish, 7359–7381
Pacific Cod by Catcher Vessels Less Than 60 feet (18.3 m) Length Overall Using Jig or Hook and Line Gear, etc., 7332
NOTICES
Meetings:
New England Fishery Management Council, 7398
Pacific Fishery Management Council, 7398–7400
Science Advisory Board, 7400–7401

National Park Service
NOTICES
National Register of Historic Places:
Pending Nominations and Related Actions, 7472–7473
Weekly Listing of Historic Properties, 7473–7474

National Science Foundation
NOTICES
Meetings:
Proposal Review, 7481
Meetings; Sunshine Act, 7481–7482

Navy Department
NOTICES
Availability of Government–Owned Inventions; Licensing, 7406–7407
Meetings:
Chief of Naval Operations Executive Panel, 7407–7408
Public Hearing of the Draft Environmental Impact Statement (DEIS) for the West Coast Basing of the MV–22, 7410–7411
Privacy Act; Systems of Records, 7408–7410

Nuclear Regulatory Commission
PROPOSED RULES
Technical Specifications Task Force:
Denial of Petition for Rulemaking, 7382–7384
NOTICES
Applications and Amendments to Facility Operating Licenses:
Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information, etc., 7482–7488
Availability of the Final Interim Staff Guidance COL/ESP–ISG–04 on the Definition of Construction and on Limited Work Authorizations, 7488
Consideration of Amendment Request for Decommissioning and Opportunity for Hearing:
Naval Surface Warfare Center Dahlgren Division, Dahlgren, VA, 7491–7492
Environmental Impact Statements; Availability, etc.:
Exelon Generation Co., LLC; Correction, 7488
Nine Mile Point 3 Nuclear Project, LLC and Unistar Nuclear Operating Services, LLC; Scoping Meeting: Cancellation, 7488–7489
Facility operating licenses:
FPL Energy Duane Arnold, LLC, 7489–7491
Request to Amend a License for the Export of Radioactive Waste, 7492–7493

Office of Federal Housing Enterprise Oversight
See Federal Housing Enterprise Oversight Office

Office of United States Trade Representative
See Trade Representative, Office of United States

Pipeline and Hazardous Materials Safety Administration
NOTICES
Application for Special Permits, 7542–7543

Securities and Exchange Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 7498–7500
Applications:
Eaton Vance Enhanced Equity Income Fund, et al., 7500–7504
Order of Suspension of Trading:
Avicena Group, Inc., et al., 7504

Carlyle Gaming & Entertainment Ltd. et al., 7504–7505
Self–Regulatory Organizations; Proposed Rule Changes:
NYSE Arca, Inc., 7505

Small Business Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 7505–7506

Social Security Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 7506–7511
Title XVI:
Determining Childhood Disability – The Functional Equivalence Domain of 'Acquiring and Using Information', 7511–7515
Determining Childhood Disability – The Functional Equivalence Domain of 'Caring for Yourself', 7521–7524
Determining Childhood Disability – The Functional Equivalence Domain of 'Interacting and Relating with Others', 7515–7518
Determining Childhood Disability – The Functional Equivalence Domain of 'Moving About and Manipulating Objects', 7518–7521
Determining Childhood Disability Under the Functional Equivalence Rule – The 'Whole Child' Approach, 7527–7532
Title XVI:
Determining Childhood Disability – The Functional Equivalence Domain of 'Health and Physical Well–Being', 7524–7527

State Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals; Correction, 7533
Preparations for Holocaust Era Assets Conference; Looted Art & Immovable Property, 7533
Renewal of the Overseas Schools Advisory Council, 7533

Substance Abuse and Mental Health Services Administration

NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 7455–7456

Surface Transportation Board
NOTICES
Meetings:
Rail Energy Transportation Advisory Committee, 7543

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Trade Representative, Office of United States
NOTICES
Correction to U.S. Note 1 Subchapter XXI of Chapter 98 of the Harmonized Tariff Schedule of the United States, 7493
WTO Dispute Settlement Proceeding Regarding China—Grants, Loans and Other Incentives, 7494–7497
WTO Dispute Settlement Proceeding Regarding United States—Certain Country of Origin Labeling Requirements, 7497–7498

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Federal Railroad Administration
See Federal Transit Administration
See Pipeline and Hazardous Materials Safety Administration
See Surface Transportation Board

Treasury Department
See Alcohol and Tobacco Tax and Trade Bureau
See Foreign Assets Control Office
See Internal Revenue Service

Veterans Affairs Department
NOTICES
Meetings:
Advisory Committee on Disability Compensation, 7547
Veterans' Rural Health Advisory Committee, 7547–7548

Reader Aids

Consult the Reader Aids section at the end of this page for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

10 CFR
Proposed Rules:
170 7382

11 CFR
100 7285
104 7285
110 7285

12 CFR
1250 7304
1773 7304

14 CFR
39 (4 documents) ... 7304, 7306, 7309, 7310
Proposed Rules:
39 7384

21 CFR
Proposed Rules:
1308 7386

24 CFR
30 7313

33 CFR
117 7313

47 CFR
15 7314

49 CFR
Proposed Rules:
611 7388
612 7388

50 CFR
679 (3 documents) 7332, 7333, 7359

Rules and Regulations

Federal Register

Vol. 74, No. 30

Tuesday, February 17, 2009

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

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

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 104 and 110

[Notice 2009–03]

Reporting Contributions Bundled by Lobbyists, Registrants and the PACs of Lobbyists and Registrants

AGENCY: Federal Election Commission.

ACTION: Final Rules and Transmittal of Regulations to Congress.

SUMMARY: The Federal Election Commission is promulgating regulations implementing new statutory provisions regarding the disclosure of information about bundled contributions provided by certain lobbyists, registrants, and political committees established or controlled by lobbyists and registrants. The final rules require authorized committees, leadership PACs, and political committees of political parties to disclose certain information about lobbyists, registrants, and lobbyists' and registrants' political committees that provide bundled contributions. Further information is provided in the supplementary information that follows.

DATES: These rules are effective on March 19, 2009. However, compliance with paragraphs (b) and (e) of 11 CFR 104.22 is not required until May 18, 2009. Political committees that are ''lobbyist/registrant PACs'' must amend their FEC Form 1 (Statement of Organization) by March 30, 2009.

FOR FURTHER INFORMATION CONTACT: Ms. Amy L. Rothstein, Assistant General Counsel, Ms. Cheryl A.F. Hemsley, or Ms. Esther Heiden, Attorneys, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Commission is promulgating final rules to implement Section 204 of Public Law 110–81, 121 Stat. 735, the ''Honest Leadership and Open Government Act of 2007,'' signed September 14, 2007 (''HLOGA''). *See* 2 U.S.C. 434(i). HLOGA amended the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 431 *et seq.*) (''FECA'') by requiring certain political committees to disclose information about each registered lobbyist [1] and registrant [2] (''lobbyist/registrant''), and each political committee established or controlled by a lobbyist or registrant (''lobbyist/registrant PAC'' [3]), that forwards, or is credited with raising, two or more bundled contributions aggregating in excess of the reporting threshold during a specific period of time. *See* 2 U.S.C. 434(i). These new disclosure requirements apply only to authorized committees of Federal candidates, political committees directly or indirectly established, financed, maintained or controlled by a candidate or an individual holding Federal office (''leadership PACs''), and party committees.

HLOGA Section 204 requires that the reporting threshold be indexed for inflation annually. HLOGA Section 204 states that the indexing requirement ''shall apply'' to the reporting threshold beginning ''[i]n any calendar year after 2007.'' *See* 2 U.S.C. 434(i)(3)(B); 2 U.S.C. 441a(c)(1)(B). Thus, although HLOGA set the initial reporting threshold at $15,000 in 2007, the reporting threshold as indexed for inflation is $16,000 for 2009. The Commission is publishing elsewhere in this **Federal Register** a notice of the reporting threshold for 2009.

The Commission is implementing these provisions by adding two new paragraphs to 11 CFR 100.5(e), which sets forth examples of ''political committees.'' In addition, the Commission is adding new section 104.22 to 11 CFR Part 104, which governs reports by political committees and other persons. Finally, in addition to addressing, in new 11 CFR 104.22(g), the price indexing of the new bundling reporting threshold, the Commission is revising one paragraph and adding another in 11 CFR 110.17, which provides for the price indexing and publication of certain contribution and expenditure limits.

The Commission published a Notice of Proposed Rulemaking in the **Federal Register** on November 6, 2007. *See* Notice of Proposed Rulemaking on Reporting Contributions Bundled by Lobbyists, Registrants and the PACs of Lobbyists and Registrants, 72 FR 62600 (November 6, 2007) (the ''NPRM''). The comment period closed on November 30, 2007. The Commission received eight comments from twelve commenters.[4] The comments are available at *http://www.fec.gov/law/law_rulemakings.shtml#bundling*. Six of the commenters testified at a hearing held on September 17, 2008. For the purposes of this document, the term ''comment'' applies to both written comments and oral testimony at the public hearing.

Under the Administrative Procedure Act, 5 U.S.C. 553(d), and the Congressional Review of Agency Rulemaking Act, 5 U.S.C. 801(a)(1), agencies must submit final rules to the Speaker of the House of Representatives and the President of the Senate, and publish them in the **Federal Register** at least thirty calendar days before they take effect. The final rules that follow were transmitted to Congress on February 4, 2009.

These regulations are effective thirty days after publication in the **Federal Register**. Reporting committees, however, must comply with the disclosure requirements of Section 204 of HLOGA and with the corresponding provisions of new 11 CFR 104.22—that is, with paragraph (b) (Reporting Requirement for Reporting Committees) and paragraph (e) (When to File)—only with respect to reports filed more than

[1] The term ''lobbyist'' is defined as any individual ''who is employed or retained by a client for financial or other compensation for services that include more than one lobbying contact, other than an individual whose lobbying activities constitute less than 20 percent of the time engaged in the services provided by such individual to that client over a 3-month period.'' 2 U.S.C. 1602(10). Any lobbyist who makes more than one lobbying contact or who is employed or retained to make lobbying contacts, and exceeds the work activity threshold, must register with the Secretary of the Senate and the Clerk of the House of Representatives (''Clerk of the House'') if certain income or expense levels are exceeded. *See* 2 U.S.C. 1603(a).

[2] Any organization that has one or more employees who are lobbyists must register on behalf of its lobbyist employees. *See* 2 U.S.C. 1603(a); *see also http://www.senate.gov/legislative/common/briefing/lobby_disc_briefing.htm#3*; *http://lobbyingdisclosure.house.gov/lda_guide.html*.

[3] ''PAC'' is an acronym often used to refer to a political action committee other than an authorized committee or a political committee of a political party.

[4] One of these comments was from the Internal Revenue Service, stating that the Internal Revenue Service did not find any conflict between its regulations and the Commission's proposed rules.

three months after these final rules are published in the **Federal Register**.

This delayed compliance date is required by Section 204(b) of HLOGA, which provides that ''the amendment made by [Section 204(a)] shall apply with respect to reports filed under [2 U.S.C. 434] after the expiration of the 3-month period which begins on the date that the regulations required to be promulgated by the [Commission] under [2 U.S.C. 434(i)(5)] become final.'' Regulations are final upon their publication in the **Federal Register**. *See Natural Resources Defense Council, Inc.* v. *EPA*, 683 F.2d 752 (3d Cir. 1982).

Reports required to be filed after these final rules are published (and any records corresponding to such reports, as discussed below) need not include activity before the effective date of these regulations, and activity before the effective date does not count toward any aggregate amount for the purposes of the reporting threshold. Thus, monthly filers must begin reporting under new 11 CFR 104.22(b) in May 2009, for bundled contributions that are received in April. Quarterly filers must begin reporting under new 11 CFR 104.22(b) in July 2009, for bundled contributions that are received in April through June 30. Finally, semi-annual filers must begin reporting under new 11 CFR 104.22(b) in July 2009, for bundled contributions that are received beginning on the effective date of these rules (*i.e.*, thirty days after publication in the **Federal Register**) through June 30. The Commission is not requiring the reporting of contributions bundled by lobbyists/registrants received as of January 1, 2009 through the effective date of these regulations (*i.e.*, 30 days after publication in the **Federal Register**), because such a requirement would be a retroactive application of the regulation. Contributions bundled by entities that may be lobbyist/registrant PACs and received through 30 days after the effective date of these regulations (*i.e.*, 60 days after publication in the **Federal Register**) also need not be reported.

Because the Commission is requiring reporting committees to report bundled contributions received as of the effective date of these regulations, but is providing an additional ten days for lobbyist/registrant PACs to amend their FEC Form 1, there will be at least a ten-day period during which reporting committees may be unable to determine definitively whether an entity is a lobbyist/registrant PAC. Moreover, because the Commission is unable to update its Web site instantaneously to provide real-time information regarding amended FEC Form 1 or to provide a list that is reasonably searchable with respect to whether an entity is a lobbyist/registrant PAC, the Commission anticipates an additional delay between the deadline by which lobbyist/registrant PACs are required to amend their FEC Form 1 and when such information becomes available to reporting committees. Accordingly, the Commission is delaying the implementation of these rules with respect to contributions bundled by entities that may be lobbyist/registrant PACs for an additional 30 days after the effective date of these regulations (*i.e.*, 60 days after publication in the **Federal Register**), during which time reporting committees are not required to report contributions bundled by such entities.

Explanation and Justification

I. Background

Prior to HLOGA, FECA and Commission regulations imposed certain reporting and recordkeeping requirements for contributions received and forwarded by any person to a political committee. Each person who received and forwarded contributions to a political committee was also required to forward certain information identifying the original contributor. *See* 2 U.S.C. 432(b); 11 CFR 102.8. Additionally, 2 U.S.C. 441a(a)(8) and 11 CFR 110.6 imposed certain reporting and recordkeeping requirements for contributions received and forwarded by persons known as ''conduits'' or ''intermediaries'' to the authorized committees of Federal candidates. The Commission did not propose and is not implementing any changes to these rules.

Section 204 of HLOGA requires each authorized committee of a Federal candidate, leadership PAC and political committee of a political party to disclose certain information about any person reasonably known by the committee to be a lobbyist/registrant or lobbyist/registrant PAC that forwards to the reporting committee, or is credited with raising for the reporting committee, two or more bundled contributions aggregating in excess of the reporting threshold within a ''covered period'' of time. *See* 2 U.S.C. 434(i)(1), (2), (3) and (8). Accordingly, Section 204 of HLOGA requires reporting committees to disclose information about two distinct types of bundled contributions: (1) Contributions that are forwarded to a reporting committee by a lobbyist/registrant or lobbyist/registrant PAC, and (2) contributions that, although received by the reporting committee directly from a contributor, are credited by the reporting committee to a lobbyist/registrant or lobbyist/registrant PAC through records, designations or other means of recognizing that a certain amount of money has been raised by that lobbyist/registrant or lobbyist/registrant PAC. *Id.* Under Section 204 of HLOGA, a reporting committee must disclose the name and address of the lobbyist/registrant or lobbyist/registrant PAC, the lobbyist/registrant's employer (for individuals), and the aggregate amount of bundled contributions within the covered period. *See* 2 U.S.C. 434(i)(1).

II. 11 CFR 100.5—Political Committee (2 U.S.C. 431(4), (5), (6))

Section 100.5(e) of 11 CFR provides examples of types of political committees. The Commission is adding two new paragraphs, (e)(6) and (e)(7), to section 100.5 regarding ''leadership PAC'' and ''lobbyist/registrant PAC,'' respectively, as examples of political committees.

A. 11 CFR 100.5(e)(6)—Leadership PAC

The term ''leadership PAC'' is defined in Section 204(a) of HLOGA as ''a political committee that is directly or indirectly established, financed, maintained or controlled by [a] candidate [for Federal office] or [an] individual [holding Federal office] but which is not an authorized committee of the candidate or individual and which is not affiliated with an authorized committee of the candidate or individual, except that such term does not include a political committee of a political party.''[5] 2 U.S.C. 434(i)(8)(B).

The new definition of ''leadership PAC'' is relevant to two areas of HLOGA that fall within the Commission's purview: (1) The disclosure requirements in Section 204 of HLOGA for contributions bundled by lobbyists/registrants and lobbyist/registrant PACs; and (2) restrictions on candidate travel in section 601 of HLOGA. See Public Law No. 110–81, section 601(a) (codified at 2 U.S.C. 439a(c)(2)).

The Commission announced its plans to initiate rulemakings for these two provisions on September 24, 2007.[6] The candidate travel NPRM responsive to section 601 of HLOGA initially proposed a definition of ''leadership PAC'' as that term applies to both provisions. *See* Notice of Proposed

[5] This definition is consistent with the Commission's rules that treat such committees as unaffiliated with a candidate's authorized committee. *See* 11 CFR 100.5(g).

[6] *See* News Release, Federal Election Commission Announces Plans to Issue New Regulations to Implement the Honest Leadership and Open Government Act of 2007, available at *http://www.fec.gov/press/press2007/20070924travel.shtml.*

Rulemaking on Candidate Travel, 72 FR 59953 (October 23, 2007) (''Candidate Travel NPRM''). The NPRM for this bundling disclosure rulemaking cited to the proposed definition in the Candidate Travel NPRM as the definition to be used. *See* NPRM, 72 FR at 62600, fn. 3; *see also* Candidate Travel NPRM, 72 FR at 59954. Because these bundling disclosure rules are becoming final before the candidate travel rules, the Commission is including the definition of ''leadership PAC'' in these final rules.

The Commission is defining ''leadership PAC'' at 11 CFR 100.5(e)(6) as proposed in the Candidate Travel NPRM. The definition follows the definition of ''leadership PAC'' in Section 204 of HLOGA.[7] The Commission received one comment on the proposed definition in response to the Candidate Travel NPRM that supported the substance and location of the new definition, and did not receive any comments opposing it.[8]

B. 11 CFR 100.5(e)(7)—Lobbyist/Registrant PAC

New paragraph (e)(7) refers the reader to the definition in new 11 CFR 104.22(a)(3) of the term ''lobbyist/registrant PAC,'' which is discussed below.

III. New 11 CFR 104.22—Disclosure of Bundling by Lobbyists/Registrants and Lobbyist/Registrant PACs (2 U.S.C. 434(i))

To implement the requirements of HLOGA Section 204, the Commission is adopting new 11 CFR 104.22. New paragraph (a) defines key terms; paragraphs (b) and (c) set forth the reporting requirements under these new rules; paragraphs (d) and (e) govern where to file and when to file, respectively; paragraph (f) establishes recordkeeping requirements; and paragraph (g) addresses the annual indexing for inflation of the threshold amount of bundled contributions that trigger the reporting requirement for a covered period.

A. 11 CFR 104.22(a)—Definitions

The Commission is adding several new definitions in new 11 CFR 104.22(a).

1. 11 CFR 104.22(a)(1)—Reporting Committee

HLOGA adds reporting requirements that apply to three types of political committees: authorized committees of a candidate, leadership PACs, and party committees. *See* 2 U.S.C. 434(i)(6). New 11 CFR 104.22(a)(1) defines ''reporting committee'' to encompass these three types of political committees, as they are defined in 11 CFR 100.5(e)(4), new (e)(6), and (f)(1). The Commission requested but received no comments on the proposed definition, which is the same as the final rule.

2. 11 CFR 104.22(a)(2)—Lobbyist/Registrant

HLOGA Section 204 applies to contributions bundled by ''a current registrant under section 4(a) of the Lobbying Disclosure Act of 1995 [the 'LDA'] (2 U.S.C. 1603(a)); an individual who is listed on a current registration filed under section 4(b)(6) of [the LDA] (2 U.S.C. 1603(b)(6)) or a current report under section 5(b)(2)(C) of [the LDA] (2 U.S.C. 1604(b)(2)(C)); [9] or a political committee established or controlled by such a registrant or individual.'' 2 U.S.C. 434(i)(7). The NPRM proposed creating a new term, ''lobbyist/registrant,'' to encompass both current registrants and individuals listed on a current registration or report filed under the LDA.

The NPRM requested comments on whether the reporting requirements of HLOGA Section 204 should also apply to contributions forwarded by or received and credited to a registrant's employee, where that employee is not listed by the registrant as an in-house lobbyist. Six comments addressed this issue. Four comments said that the crux of the matter would depend on whether the employee was raising funds on behalf of the employee's registrant employer or was acting on the employee's own behalf. Three of these comments suggested various standards that the Commission might employ to determine on whose behalf the non-lobbyist employee is acting. One comment suggested using a standard based on the law of agency. A second comment suggested using a standard analogous to that used in determining whether corporate facilitation has taken place, that is, examining whether the employee was ordered or directed by the employee's superior to undertake the activity. *See* 11 CFR 114.2(f)(2)(i)(A). A third comment suggested creating a rebuttable presumption that certain employees, such as senior officers and government relations employees of a registrant, are acting on behalf of their registrant employer.

By contrast, two comments stated that HLOGA covers only activity by lobbyists/registrants and lobbyist/registrant PACs. One of these comments stated that the Commission has no authority to go beyond the plain statutory language by requiring the disclosure of information about individuals who are employed by registrants but are not themselves lobbyists.

The Commission agrees with the latter two comments. By its express terms, HLOGA requires the disclosure of information only about lobbyists and registrants. 2 U.S.C. 434(i)(7). This interpretation is further supported by a section-by-section analysis of HLOGA that was made a part of the record in the Senate debate on HLOGA by Senator Feinstein. In her remarks, Senator Feinstein stated ''I ask unanimous consent to have printed in the [Congressional] Record a section-by-section analysis of the bill [HLOGA] we are about to vote on, including legislative history endorsed by the three principal Senate authors of the legislation: myself, Chairman [of the Senate Committee on Homeland Security and Governmental Affairs] Lieberman and Majority Leader Reid.'' 153 Cong. Rec. S10708 (daily ed. August 2, 2007) (''Section-by-Section Analysis'').

The Section-by-Section Analysis specifically states that the disclosure requirements apply only to lobbyists and registrants:

> This provision covers only contributions credited to registered lobbyists, as defined in subsection 204(a)(7). Contributions credited to others, including others who may share a common employer with, or work for a lobbyist, are not covered by this section so long as any credit is genuinely received by the non-lobbyist and not the lobbyist.

153 Cong. Rec. S10709 (daily ed. August 2, 2007).

Thus, the Commission has determined that non-lobbyist employees of lobbyists/registrants or lobbyist/registrant PACs who forward bundled contributions or receive credit from a reporting committee for bundling contributions are outside of the scope of HLOGA Section 204. However, if the reporting committee knows that the

[7] The term ''political committee'' applies only to those organizations that are for the purpose of influencing Federal elections. The definition of ''leadership PAC'' does not cover committees that are not included in the definition of ''political committee'' (such as State leadership PACs that are established, financed, maintained, or controlled by a State official who runs for Federal office).

[8] Comments filed in the candidate travel rulemaking are available at *http://www.fec.gov/law/law_rulemakings.shtml#travel07*.

[9] Under Section (4)(b)(6) of the LDA, each registration filed with the Secretary of the Senate or Clerk of the House must include the name of each employee of the registrant who has acted or whom the registrant expects to act as a lobbyist on behalf of the registrant or a client; under Section 5(b)(2)(C), each registrant must file quarterly reports with the Secretary of the Senate and the Clerk of the House that include a list of the registrant's employees who acted as lobbyists on behalf of a client of the registrant during the quarter. *See* 2 U.S.C. 1603(b)(6); 2 U.S.C. 1604(b)(2)(C).

person is forwarding the contributions on behalf of a lobbyist/registrant or lobbyist/registrant PAC, such forwarded contributions are within the scope of HLOGA Section 204. The final rule defines ''bundled contribution'' accordingly. *See* 11 CFR 104.22(a)(6)(i); *see also* discussion below at III.6.a.

3. 11 CFR 104.22(a)(3)—Lobbyist/Registrant PAC

New 11 CFR 104.22(a)(3) defines ''lobbyist/registrant PAC'' as ''any political committee that a 'lobbyist/registrant' 'established or controls' '' as that term is defined in 11 CFR 104.22(a)(4). This definition tracks the language of HLOGA, which defines ''persons'' who raise bundled contributions to include a ''political committee established or controlled'' by a lobbyist or registrant. 2 U.S.C. 434(i)(7)(C). As discussed below, any political committee that meets the definition of ''lobbyist/registrant PAC'' under 11 CFR 104.22(a)(3) must identify itself as such on any FEC Form 1 (Statement of Organization) that it files with the Commission after the effective date of this rule. *See* 11 CFR 104.22(c). Committees that have already filed FEC Form 1 with the Commission and that meet the definition of ''lobbyist/registrant PAC'' under 11 CFR 104.22(a)(3) are required to amend their FEC Form 1 to reflect this change in status within ten days after the effective date of this rule. *Id.*; 11 CFR 102.2(a)(2). Thus, Form 1 must be amended within forty days after the date this rule is published in the **Federal Register**. Statements of Organization are filed pursuant to 2 U.S.C. 433, and therefore are not subject to the mandatory three-month waiting period under HLOGA Section 204, which applies to reports filed under 2 U.S.C. 434(i).

4. 11 CFR 104.22(a)(4)—Established or Controls

HLOGA Section 204 requires reporting committees to disclose bundled contributions that exceed the reporting threshold within a covered period, if those bundled contributions were forwarded by, or received and credited to, any political committee reasonably known by the recipient reporting committee to be ''established or controlled'' by a lobbyist or registrant. 2 U.S.C. 434(i)(7)(C). The NPRM asked several questions as to when a lobbyist/registrant should be considered to have ''established or [to] control[ ]'' a political committee. In the NPRM, the Commission requested but received no comments on including the separate segregated fund (''SSF'') of any corporation, labor organization or other connected organization (*see* 11 CFR 100.6) that is a registrant under the LDA, within the ambit of ''lobbyist/registrant PACs.''

The NPRM also requested comments on when a nonconnected committee would be considered to be ''controlled'' by a lobbyist/registrant, and whether a lobbyist/registrant that is the treasurer of the political committee controls the committee *per se*. One comment on this issue suggested that ''controlled'' is a recognized term of art under FECA: for example, political committees ''established, financed, maintained or controlled'' by the same person or group of persons are ''affiliated'' and are treated as a single committee for contribution purposes. Several comments suggested using factors similar to those used by the Commission to determine case-by-case affiliation of political committees under 11 CFR 100.5(g). These comments suggested using such factors as (1) whether the lobbyist/registrant has the authority to direct or participate in the governance of the political committee; (2) whether the lobbyist/registrant has the authority to hire, appoint, demote or otherwise control the officers of the political committee; and (3) whether the lobbyist/registrant provides significant funding for the political committee on an ongoing basis. One comment stated that having a lobbyist on the board of directors of a nonconnected committee or serving as an officer would be an example of *per se* control by the lobbyist. Another comment agreed that having a lobbyist acting as treasurer of a nonconnected committee would constitute *per se* control, but cautioned against creating a rule that would make any board membership *per se* control.

The concept of ''established or controlled'' in Section 204 of HLOGA, which is implemented by the Commission in new 11 CFR 104.22(a)(4), relates to the same entities as does Section 203 of HLOGA, which is implemented by the Secretary of the Senate and Clerk of the House under the LDA. *See* 2 U.S.C. 1604(d). Therefore, in addition to the comments' proposals, the Commission also considered following the description of ''established or controlled'' set out by the Secretary of the Senate and the Clerk of the House of Representatives in their guidance on reports filed with them under the LDA, which includes the following example:

> Lobbyists ''C'' and ''D'' serve on the board of a non-connected PAC as member and treasurer respectively. As board members, they are in positions that control direction of the PAC's contributions. Since both are controlling to whom the PAC's contributions are given, they must d

See Secretary of the Senate Guidance (January 16, 2009), available at http://www.senate.gov/legislative/resources/pdf/S1guidance.pdf at page 24; Clerk of the House Guidance (January 16, 2009), *available at http://lobbyingdisclosure.house.gov/amended_lda_guide.html#125update* at section 7.

The Commission decided to use a combination of the House and Senate guidance and the Commission's own factors to determine whether a lobbyist/registrant established or controls a political committee. Because of the overlap between Sections 203 and 204 of HLOGA with respect to the use of the term ''established or controlled,'' the Commission concluded that it was preferable, to the extent practicable, to harmonize its rule in new 11 CFR 104.22(a)(4) with the Secretary of the Senate and the Clerk of the House's implementation of Section 203 of HLOGA under the LDA.

Accordingly, a lobbyist/registrant established or controls any political committee for the purposes of new 11 CFR 104.22(a)(4) if the lobbyist/registrant is required to disclose such political committee to the Secretary of the Senate or the Clerk of the House as being established or controlled by that lobbyist/registrant under Section 203 of HLOGA. If a political committee is able to obtain definitive guidance from the Secretary of the Senate or Clerk of the House that it is, or is not, required to be disclosed as being established or controlled by a lobbyist/registrant, then such determination is conclusive for the purposes of new 11 CFR 104.22, and the political committee need not consider the Commission's additional criteria described below.

The Commission is aware, however, that there may be times when a political committee will not be able to determine definitively from guidance issued by the Secretary of the Senate and the Clerk of the House, or after communicating with those offices, whether a political committee is established or controlled by a lobbyist/registrant. For this reason, the Commission is issuing additional criteria on whether a political committee is established or controlled by a lobbyist/registrant for the purposes of HLOGA Section 204. If, after consulting guidance issued by the offices of the Secretary of the Senate and Clerk of the House or after communicating with those offices, a political committee is unable to ascertain whether it is established or controlled by a lobbyist/registrant, the

political committee must consult the additional criteria set forth in new 11 CFR 104.22(a)(4)(ii).

Under these additional criteria, a political committee must first consult new 11 CFR 104.22(a)(4)(ii)(A), which states that a separate segregated fund whose connected organization is a registrant is a lobbyist/registrant PAC. If the political committee does not meet the criterion under 11 CFR 104.22(a)(4)(ii)(A), then the political committee must next look to new 11 CFR 104.22(a)(4)(ii)(B), which sets out two additional independent criteria for determining whether a political committee is ''established or controlled'' by a lobbyist/registrant. The Commission has decided not to incorporate the broad affiliation analysis at 11 CFR 100.5(g). That analysis would have required the weighing of several factors in order to determine whether a lobbyist/registrant established or controls a political committee. Instead, to give firm guidance to political committees, the ''established or controls'' analysis in new 11 CFR 104.22(a)(4)(ii)(B) states that a political committee is established or controlled by a lobbyist/registrant if it meets either of the criteria in paragraph (1) or (2). The Commission notes that HLOGA Section 204 uses the words ''established *or* controlled.'' The use of the disjunctive ''or'' (rather than the conjunctive ''and'') means that only one of those criteria need be present to trigger application of the law.

Webster's Dictionary defines ''establish'' as ''to found, institute, build, or bring into being on a firm or stable basis.'' Random House Webster's Unabridged Dictionary, 2nd ed. 663 (Random House 2001). The Commission recognizes that several individuals may participate in the establishment of a political committee. Therefore, the first criterion, as set out in new 11 CFR 104.22(a)(4)(ii)(B)(1), provides that a political committee is ''established'' by a lobbyist/registrant if a lobbyist/registrant had a primary role in the establishment of the political committee, excluding the provision of legal or compliance services or advice.

The second criterion, set forth in new 11 CFR 104.22(a)(4)(ii)(B)(2), provides that a political committee is ''controlled'' by a lobbyist/registrant if the lobbyist/registrant directs the governance or operations of the political committee, excluding the provision of legal or compliance services or advice. This standard derives from the dictionary definition of ''control:'' ''to exercise restraint or direction over; dominate; command.'' *Id.* at 442. The lobbyist/registrant's authority to direct, which need not be exclusive to any one person, may derive from the political committee's controlling documents, such as the articles of incorporation or bylaws. However, a political committee's informal procedures or actual practices may also demonstrate that a lobbyist/registrant directs the governance or operations of the committee. For example, even a lobbyist/registrant who is a non-voting member of a political committee's board of directors may control the political committee as long as that lobbyist/registrant in fact directs the governance or operations of the political committee.

Both criteria, as discussed above, exclude the provision of legal or compliance services or advice from the criteria for determining when a political committee is established or controlled by a lobbyist/registrant. This exclusion reflects the Commission's recognition that, during and after formation, political committees often consult experts who may be lobbyists/registrants or whose firms are registrants. The new rule is designed to reach those situations in which the lobbyist/registrant is more actively involved in the formation or operation of a political committee than merely providing legal or compliance services or advice. Thus, a political committee's use for compliance purposes of an attorney or other expert from a firm that itself is a registrant (or even if the attorney or expert is a lobbyist/registrant) will not by itself result in the political committee being established or controlled by a lobbyist/registrant.

5. 11 CFR 104.22(a)(5)—Covered Period

Section 204 of HLOGA requires that reporting committees disclose information about any lobbyist/registrant or lobbyist/registrant PAC that forwards, or is credited with raising for the reporting committee, two or more bundled contributions aggregating in excess of the reporting threshold during any ''covered period.'' *See* 2 U.S.C. 434(i)(1), (2), (3) and (8). HLOGA defines ''covered period'' as January 1 through June 30, July 1 through December 31 ''and * * * any reporting period applicable to the committee under [2 U.S.C. 434] during which any [lobbyist/registrant or lobbyist/registrant PAC] provided two or more bundled contributions to the committee in an aggregate amount greater than [the reporting threshold].'' 2 U.S.C. 434(i)(2). HLOGA grants the Commission the discretion to provide for quarterly reporting by political committees that file their campaign finance reports more frequently than on a quarterly basis.[10] *See* 2 U.S.C. 434(i)(5)(A).

a. The Proposed Definition

The NPRM presented both a proposed and an alternative definition of ''covered period.'' Under the proposed definition, a ''covered period'' would be the semi-annual periods of January 1 through June 30 and July 1 through December 31. Additionally, in any calendar year in which a reporting committee is required to file or files monthly or quarterly campaign finance reports, ''covered period'' would also include the quarterly periods of January 1 through March 31 and July 1 through September 30, if during those periods, a lobbyist/registrant or lobbyist/registrant PAC provided two or more bundled contributions to the reporting committee that aggregate in excess of the reporting threshold.

The Commission received four comments favoring the proposed definition. All four comments stated that the proposed definition was consistent with HLOGA's requirement that the Commission's regulations provide for the broadest possible disclosure of lobbyist/registrant bundling activity.

The NPRM also asked whether the statute would support the elimination of duplicative reporting that would result from the proposed definition of ''covered period.'' The NPRM asked, for example, whether there is a statutory basis for the Commission to consider exempting reporting committees from having to disclose semi-annually information about lobbyists/registrants or lobbyist/registrant PACs providing bundled contributions if the information was already fully disclosed in a prior report filed with the Commission. All four comments were in favor of the elimination of duplicative reporting. As such, they suggested that the Commission design the new reporting schedule to allow for both quarterly and semi-annual reporting once the

[10] Under FECA, political committees are subject to the following campaign finance reporting requirements: national committees of political parties (including the national congressional campaign committees) must report monthly in all calendar years, *see* 2 U.S.C. 434(a)(4)(B); 11 CFR 104.5(c)(4); state, district and local committees of political parties are required to file monthly if they exceed certain levels of Federal election activity, *see* 2 U.S.C. 434(e)(4); 11 CFR 300.36(c); most authorized committees of presidential candidates are required to file monthly during presidential election years, *see* 2 U.S.C. 434(a)(3); 11 CFR 104.5(b); authorized committees of House and Senate candidates are required to file quarterly, *see* 2 U.S.C. 434(a)(2); 11 CFR 104.5(a); other political committees may choose to file on either a monthly or a quarterly basis, *see* 2 U.S.C. 434(a)(4); 11 CFR 104.5(c)(1)–(3).

reporting threshold has been exceeded. One comment stated that such a reporting form would assist the public's understanding of the data.

b. The Alternative Definition

The alternative definition in the NPRM would provide that, in any calendar year in which a reporting committee is required to file or files reports on a quarterly or monthly basis under 11 CFR 104.5, the covered period would be defined as the quarterly periods of January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Additionally, in any calendar year in which a reporting committee files semi-annual reports, the covered period would also include the semi-annual periods of January 1 through June 30 and July 1 through December 30. The Commission received one comment in favor of this alternative definition, noting that the alternative definition would result in more persons meeting the reporting threshold, and thus lead to greater disclosure.

c. Quarterly Covered Periods for Reporting Committees Which File More Frequently Than on a Quarterly Basis

Under both the proposed and the alternative definition of ''covered period'' in the NPRM, the Commission would have exercised its authority under HLOGA to require reporting committees that file monthly campaign finance reports to file their bundling disclosure reports quarterly, rather than monthly. *See* 2 U.S.C. 434(i)(5)(A).

The Commission asked whether it should, instead, require monthly filers to disclose information about bundled contributions on a monthly and semi-annual basis. *See* 2 U.S.C. 434(i)(5)(A) (''[T]he Commission may * * * provide for quarterly filing * * * by a committee which files reports * * * more frequently than on a quarterly basis.'').

The Commission received five comments on this question. All supported quarterly filing schedules for political committees that file their campaign finance reports on a monthly basis. One comment noted that quarterly filing will result in more persons meeting the reporting threshold, and thus provide greater disclosure by reporting committees. The comment further noted that requiring reporting committees to determine on a monthly basis which entities have forwarded or been credited with raising contributions in excess of the reporting threshold, and then to determine for that same period which of those entities are lobbyists/registrants or their PACs, would impose an undue compliance burden on many reporting committees.

d. Definition of ''Covered Period'' in Final Rule

The Commission's final rule follows HLOGA Section 204. The final rule provides for different ''covered periods'' as follows:

Semi-Annual Covered Periods—''Covered period'' for each reporting committee is the semi-annual periods of January 1 through June 30, and July 1 through December 31. *See* 11 CFR 104.22(a)(5)(i).

Quarterly Covered Periods—For reporting committees that file campaign finance reports under 11 CFR 104.5 on a quarterly basis, the covered periods also include the quarters beginning on January 1, April 1, July 1, and October 1, and the applicable pre- and post-election reporting periods in election years. *See* 11 CFR 104.22(a)(5)(ii). In non-election years, reporting committees other than those authorized by a candidate may file lobbyist bundling disclosure reports only for the semi-annual covered periods. *Id.*

Monthly Covered Periods—For reporting committees that file campaign finance reports under 11 CFR 104.5 on a monthly basis, the covered periods also include each month in the calendar year, except that in election years, the pre- and post-general election reporting periods are covered periods in lieu of the monthly November and December reporting periods. 11 CFR 104.22(a)(5)(iii); *see also* 11 CFR 104.5(c)(3)(ii). This reporting schedule follows the campaign finance reporting schedule for political committees other than authorized committees in 2 U.S.C. 434(a)(4)(B).

HLOGA requires reporting committees to file lobbyist bundling disclosure reports both semi-annually and for ''any reporting period applicable'' to the reporting committee under 2 U.S.C. 434 during which any lobbyist/registrant or lobbyist/registrant PAC provided two or more bundled contributions to the committee in an aggregate amount exceeding the reporting threshold. 2 U.S.C. 434(i)(2)(C). Conforming the definition of ''covered period'' in 11 CFR 104.22(a)(5) with the reporting committee's campaign finance reporting periods under 2 U.S.C. 434 thus more closely tracks the language of HLOGA than did either the proposed rule or its alternative in the NPRM.

Furthermore, requiring reporting committees to file lobbyist bundling disclosure reports according to their usual campaign finance reporting schedule, including pre- and post-election reports, means that quarterly filers will disclose information about lobbyist bundling activity during the crucial period immediately before an election, as will monthly filers in the period immediately before a general election. The proposed rule and the alternative in the NPRM would have resulted in the disclosure of lobbyist/registrant and lobbyist/registrant PAC bundling information by quarterly and monthly filers only after the close of each calendar quarter which, in some cases, would have been after the relevant election. The Commission's decision to require pre-election disclosure is consistent with the requirement in HLOGA that the Commission promulgate rules that ''provide for the broadest possible disclosure.'' 2 U.S.C. 434(i)(5)(D).

The Commission's decision to conform the definition of ''covered period'' to a reporting committee's campaign finance reporting schedule alleviates the concern expressed in several comments that reporting committees might find it difficult to try to implement two different reporting schedules—one for campaign finance reports under 11 CFR 104.5 and one for lobbyist bundling disclosure reports under 11 CFR 104.22. Requiring the filing of bundling disclosure reports and campaign finance reports on the same timeline reduces or alleviates any possible confusion, while at the same time reducing the burden of the reporting requirement. In addition, placing both types of reports on the same timeline will facilitate the public's ability to compare the two types of reports accurately, thereby further helping to achieve the public disclosure objectives of HLOGA. *See* 2 U.S.C. 434(i)(5)(D). Accordingly, 11 CFR 104.22(a)(5)(ii) and (iii) define ''covered period'' to correspond to a reporting committee's regular campaign finance reporting schedule under 11 CFR 104.5.

The Commission recognizes, however, that some comments conveyed a preference for allowing reporting committees that file their campaign finance reports on a monthly basis to file their lobbyist bundling disclosure reports quarterly, instead. As one comment noted, requiring reporting committees to make a monthly determination as to who is a lobbyist/registrant or lobbyist/registrant PAC, and whether or not the reporting threshold for bundled contributions has been exceeded, would impose a substantial compliance burden. Recognizing that concern, the regulations adopted by the Commission permit quarterly filing of the information required by this regulation

for reporting committees that file their campaign finance reports under 2 U.S.C. 434 more frequently than on a quarterly basis. *See* 2 U.S.C. 434(i)(5)(A). Under new 11 CFR 104.22(a)(5)(iv), reporting committees that file their campaign finance reports on a monthly basis may elect to file their lobbyist bundling disclosure reports on a quarterly, rather than monthly, basis. Any such reporting committee that chooses to file its lobbyist bundling disclosure reports on a quarterly basis must follow the same schedule as quarterly filers: semi-annually; for each calendar quarter; and pre- and post-election, as discussed above. A reporting committee that wishes to change its reporting schedule under new 11 CFR 104.22(a)(5) must notify the Commission in writing, just as non-authorized committees must do for campaign finance reports. 11 CFR 104.22(a)(5)(iv); *see also* 11 CFR 104.5(c). Reporting committees may not change their filing frequency more than once per calendar year. 11 CFR 104.22(a)(5)(iv); *see also* 11 CFR 104.5(c).

Finally, new 11 CFR 104.22(a)(5)(v) establishes a covered period for reporting committees with respect to special elections and runoff elections. Any such reporting committee that receives two or more contributions forwarded by or raised by and credited to a lobbyist/registrant or lobbyist/registrant PAC that exceed the reporting threshold during the covered period must file FEC Form 3L (Report of Contributions Bundled by Lobbyists/Registrants and Lobbyist/Registrant PACs) at the same time that the reporting committee files its campaign finance reports for the special or run-off election. Special and run-off elections are called under State law, and the Commission sets deadlines for filing campaign finance reports for the elections under 2 U.S.C. 434(a)(9). *See also* 11 CFR 104.5(h). The new definition of ''covered period'' for reporting committees active in special and run-off elections thus is consistent with HLOGA's definition of ''covered period,'' which includes ''any reporting period applicable to the committee under [2 U.S.C. 434].'' 2 U.S.C. 434(i)(2).

6. 11 CFR 104.22(a)(6)—Bundled Contribution

HLOGA Section 204 defines the term ''bundled contribution'' as ''with respect to a [reporting committee] and a [lobbyist/registrant or lobbyist/registrant PAC], a contribution (subject to the applicable threshold) which is (i) forwarded from the contributor or any contributors to the [reporting] committee by the [lobbyist/registrant or lobbyist/registrant PAC]; or (ii) received by the [reporting] committee from a contributor or contributors, but credited by the [reporting] committee or the candidate involved (or, in the case of a leadership PAC, by the [officeholder] involved) to the [lobbyist/registrant or lobbyist/registrant PAC] through records, designations, or other means of recognizing that a certain amount of money has been raised by the [lobbyist/registrant or lobbyist/registrant PAC].'' 2 U.S.C. 434(i)(8)(A).[11]

HLOGA thus recognizes two distinct types of bundled contributions—(1) contributions that are forwarded to the reporting committee by a lobbyist/registrant or lobbyist/registrant PAC, and (2) contributions received by the reporting committee from the contributors that are credited by the reporting committee to a lobbyist/registrant or lobbyist/registrant PAC through records, designations or other means of recognizing that a certain amount of money has been raised by that lobbyist/registrant or lobbyist/registrant PAC. Each type of bundled contribution is discussed separately below.

a. 11 CFR 104.22(a)(6)(i)—Contributions Forwarded to a Reporting Committee by a Lobbyist/Registrant or Lobbyist/Registrant PAC

The first type of ''bundled contribution'' defined in 11 CFR 104.22(a)(6) is a contribution that is forwarded to the reporting committee by a lobbyist/registrant or lobbyist/registrant PAC. New 11 CFR 104.22(a)(6)(i) states that a forwarded contribution is any contribution delivered or transmitted, by physical or electronic means, to the reporting committee by the lobbyist/registrant or lobbyist/registrant PAC, or by any person that the reporting committee knows to be forwarding such contribution on behalf of a lobbyist/registrant or lobbyist/registrant PAC.

This type of bundled contribution does not result from the reporting committee's crediting the lobbyist/registrant or the lobbyist/registrant PAC with having raised the contributions in order for the contributions to be included in the aggregate amount of bundled contributions disclosed. Rather, this type of bundled contribution turns solely on the fact that the contributions were forwarded by the lobbyist/registrant or lobbyist/registrant PAC to the reporting committee. Bundled contributions that are forwarded to a reporting committee by a lobbyist/registrant or lobbyist/registrant PAC must be reported regardless of whether the committee awards any ''credit'' to the lobbyist/registrant or lobbyist/registrant PAC.

The NPRM sought comment as to whether it might be helpful and facilitate compliance if the Commission were to define the term ''forwarded'' in the rule as, for instance, ''arranging or causing the physical or electronic delivery or transmission of a contribution.'' NPRM, 72 FR at 62602.

Three comments addressed this question. One comment stated that such a definition would be useful to clarify, for example, that if a lobbyist collects a batch of checks for a candidate but arranges for an employee or third party to give them to the candidate, rather than personally delivering them, those checks have been ''forwarded'' and the reporting committee must report the information about the bundler if the contributions exceed the reporting threshold.

A second comment stated that the definition of the term ''forwarded'' should simply restate the Commission's current ''intermediary/conduit'' concept at 11 CFR 110.6. This comment suggested that for simplicity, the Commission should apply the existing standards in 11 CFR 110.6, but exclude the exception in 11 CFR 110.6(b)(2)(i)(E) for any person who is expressly authorized by the candidate or the candidate's political committee to engage in fundraising, and who occupies a significant position in the candidate's campaign organization.

The third comment stated that such a definition would be helpful, but argued that HLOGA Section 204 covers only contributions that are physically forwarded by a lobbyist to a reporting committee, rather than contributions forwarded electronically. In the absence of statutory language to the contrary, the comment argued, the Commission must adopt the approach set forth in the Section-by-Section Analysis, which refers to ''situation[s] where a lobbyist physically forwards contributions to the campaign.'' 153 Cong. Rec. S10709 (daily ed. August 2, 2007).

The Commission concludes that a new definition of ''forwarded contribution'' would be helpful and that the new definition should appropriately encompass both the physical and the electronic forwarding of contributions.

The Section-by-Section Analysis explains that the first type of bundled contribution ''covers the situation where a lobbyist physically forwards

[11] As discussed in section III.H below, because the term ''contributions'' in FECA includes in-kind contributions, the rules for ''bundled contributions'' apply to both monetary and in-kind contributions. *See* 2 U.S.C. 431(8)(A)(i) and 11 CFR 100.51(a), 100.54, 100.56, 109.21(b).

contributions to the campaign.'' This type of bundled contribution is distinguished from situations in which contributions are made directly by a contributor to a reporting committee, but are raised by and credited to a lobbyist/registrant or lobbyist/registrant PAC.

The Commission has long recognized that contributions may be made electronically. The Commission has also recognized that earmarked contributions may be forwarded electronically to the recipient candidate committee. *See generally* Advisory Opinion 1995–09 (NewtWatch). Accordingly, the Commission has concluded that certain contributions should not fall outside the scope of HLOGA's reporting requirements simply because they were forwarded electronically. New 11 CFR 104.22 thus requires disclosure of information about lobbyists/registrants and lobbyist/registrant PACs that forward contributions either physically or electronically to a reporting committee if the amount of bundled contributions exceeds the reporting threshold in the covered period.

Examples of contributions forwarded ''electronically'' include contributions received by a lobbyist/registrant in the form of checks and then deposited by the lobbyist/registrant in its account and transmitted by the lobbyist/registrant electronically to the reporting committee, and contributions received by a lobbyist/registrant PAC via credit card, debit card, or electronic check, including authorization to access credit or debit card funds or banking funds, and then transmitted by the lobbyist/registrant PAC in the form of a check or via credit card to the reporting committee.[12]

Additionally, 11 CFR 104.22(a)(6)(i) specifies that a bundled contribution means a contribution that is forwarded to the reporting committee by a person that the reporting committee ''knows to be forwarding such contribution on behalf of a lobbyist/registrant or lobbyist registrant PAC.'' This provision covers such situations as when an employee or officer of a lobbyist/registrant or lobbyist/registrant PAC forwards a contribution to a reporting committee, and the reporting committee knows that the employee or officer forwarded the contributions on behalf of the lobbyist/registrant or lobbyist/registrant PAC.

As noted below, the Commission believes that both the reporting committee and the lobbyist/registrant or lobbyist/registrant PAC have a convergent interest in knowing and having it made known that a lobbyist/registrant or lobbyist/registrant PAC has raised certain contributions for the committee. If the reporting committee knows that the non-lobbyist intermediary is forwarding the checks on behalf of the lobbyist/registrant or lobbyist/registrant PAC, the reporting committee must report information about the lobbyist/registrant or lobbyist/registrant PAC on whose behalf the checks are forwarded, if the reporting threshold is met. The reporting requirement may not be avoided simply because the intermediary who forwarded the contribution was not a lobbyist/registrant or lobbyist/registrant PAC.

For example, a lobbyist may ask a friend, colleague, employee, or courier service to deliver checks collected by the lobbyist to a reporting committee. If the reporting committee knows of that fact, for example, if told orally or by means of a transmittal letter, disclosure of the lobbyist-forwarded contributions cannot be avoided in this case simply because the lobbyist forwarded such contributions through a non-lobbyist intermediary.

b. 11 CFR 104.22(a)(6)(ii)—Crediting Contributions to Lobbyists/Registrants and Their PACs

The second type of ''bundled contribution'' in new 11 CFR 104.22(a)(6) covers contributions received by the reporting committee from the contributors (rather than from a lobbyist/registrant or lobbyist/registrant PAC, as discussed in section III.A.6.a, above) that are credited by the reporting committee to a lobbyist/registrant or lobbyist/registrant PAC through records, designations or other means of recognizing that a certain amount of money has been raised by that lobbyist/registrant or lobbyist/registrant PAC. 11 CFR 104.22(a)(6)(ii).

i. Received and Credited

The NPRM requested comments on whether the amount of contributions received or the amount of contributions *credited* should be included in the aggregation toward the reporting threshold.

Two comments addressed this issue. One comment indicated a preference that the reporting committees be required to disclose the amount received, rather than the amount credited, to eliminate any discrepancies in the amounts that lobbyists/registrants and their PACs report they have raised for reporting committees and the amounts that the reporting committees know have or have not been raised. The other comment stated that both the amounts received *and* credited should determine the amount disclosed. This latter comment stated a belief that the reporting committee is in the best position to determine what credit to give and to whom. The comment noted that what matters under HLOGA is the amount of contributions that the reporting committee credits the lobbyist/registrant or lobbyist/registrant PAC for having raised.

The Commission agrees with the latter comment. Bundled contributions that are *forwarded* to a reporting committee by a lobbyist/registrant or lobbyist/registrant PAC must be reported regardless of whether the reporting committee provides any ''credit'' for them. In contrast, the focus of HLOGA's reporting requirement for contributions received directly from contributors is based upon the credit that a reporting committee gives to a lobbyist/registrant or lobbyist/registrant PAC for having raised the contribution. The Commission so concludes for the following reasons:

(A) HLOGA defines ''bundled contribution'' as a contribution ''received by the committee from a contributor or contributors, *but credited by the committee or candidate involved* * * * to the [lobbyist/registrant or lobbyist/registrant PAC] through records, designations, or other means of recognizing that a certain amount of money has been raised by the [lobbyist/registrant or lobbyist/registrant PAC].'' 2 U.S.C. 434(i)(8)(A)(ii) (emphasis added). Thus, the statutory definition has two components: receipt from the contributor and credit given to the lobbyist/registrant or lobbyist/registrant PAC.

(B) HLOGA's disclosure requirement is intended to make transparent the influence that lobbyists/registrants and lobbyist/registrant PACs might gain by raising contributions for reporting committees. Any such influence may be affected by the reporting committee's perception of the value of the lobbyist/registrant's or lobbyist/registrant PAC's fundraising efforts. Accordingly, the purpose behind HLOGA's disclosure

[12] The Commission notes that, in these examples, the lobbyist/registrant also might have to file a conduit report pursuant to 11 CFR 110.6. Conduits, intermediaries, and lobbyist/registrants and lobbyist/registrant PACs that forward bundled contributions are also subject to the rules in 11 CFR 102.8. Conduit or intermediary activities are additionally subject to disclosure by reporting committees under these final rules if the conduits or intermediaries are lobbyist/registrants or lobbyist/registrant PACs and provide bundled contributions exceeding the reporting threshold within the covered period. Furthermore, these final rules do not make permissible any activity otherwise prohibited by the FECA and Commission regulations (*e.g.*, making or facilitating contributions by prohibited sources). *See, e.g.*, 2 U.S.C. 441b(a) and 11 CFR 114.2(f).

requirement is best served by requiring reporting committees to disclose the amount of credit that they give to lobbyist/registrants or lobbyist/registrant PACs for having raised contributions.

(C) The Section-by-Section Analysis supports this interpretation. It states that the disclosure requirement would apply only if the reporting committee credits a lobbyist/registrant or lobbyist/registrant PAC with proceeds of a fundraising event that the lobbyist/registrant or lobbyist/registrant PAC hosts. *See* 153 Cong. Rec. S10709 (daily ed. August 2, 2007) (''An event hosted by a registered lobbyist *may* trigger the disclosure requirement *if* the committee *credits* the lobbyist with the proceeds of the fundraiser. * * *'') (emphasis added). The Section-by-Section Analysis also emphasizes that the reporting requirement depends on whether the committee gave credit to the lobbyist/registrant or lobbyist/registrant PAC, as opposed to requiring a committee to report automatically the proceeds of any fundraising event held on the premises of a lobbyist/registrant or lobbyist/registrant PAC. *Id.* (''The disclosure requirement is not triggered by general solicitation of contributions where a registered lobbyist attends an event or an event is held on the premises of a registrant.'') Therefore, the Commission believes that the focus of HLOGA Section 204 is the credit provided by the reporting committee to the lobbyist/registrant or lobbyist/registrant PAC for having raised contributions.

(D) Further, the Commission notes that Congress may have anticipated the possible discrepancy between the amount that a lobbyist/registrant or lobbyist/registrant PAC may claim to have raised for a reporting committee, and the amount that the reporting committee reports as actually credited to a lobbyist/registrant or lobbyist/registrant PAC. Earlier versions of the Senate bill that eventually became HLOGA Section 204 would have placed the reporting obligation for contributions ''collected or arranged'' by a lobbyist or registrant solely on the lobbyist or registrant. S.1, 110th Cong. § 212 (as passed by the Senate, Jan. 18, 2007). Because of concerns about the accuracy of the information that would be reported, however, a subsequent House bill, H.R. 2317, also would have required registered lobbyists to give notice to the recipients of these contributions before the lobbyists filed their reports. H.R. 2317, 110th Cong. § 2(a) (as passed by the House, July 31, 2007). The Committee Report for this bill explained the provision: ''[t]his notice enables the covered recipient to raise any questions with the lobbyist about the information, and to take any appropriate action, prior to the public filing of the information.'' H.R. Rep. 110–162, at 4 (May 21, 2007). As enacted, HLOGA addressed this concern by requiring the reporting committees themselves to disclose contributions forwarded by, or raised by and credited to, lobbyists. *See* 2 U.S.C. 434(i)(1). In short, this evolution reflects the reality that simply because a lobbyist or registrant claims to have raised a specific amount for a reporting committee does not make it so. Instead, Congress anticipated that the reporting committees themselves would be in the best position to determine whether they had received contributions and credited the contributions to a lobbyist/registrant or lobbyist/registrant PAC.

Accordingly, new 11 CFR 104.22(a)(6)(ii) follows HLOGA, as explained in the Section-by-Section Analysis, in requiring that a contribution be both received by the reporting committee and credited to a lobbyist/registrant or lobbyist/registrant PAC to satisfy the definition of ''bundled contribution.'' *See* 2 U.S.C. 434(i)(8)(A)(ii). Thus, for example, if a lobbyist merely tells a candidate that the lobbyist has raised $20,000 for the candidate's campaign, those contributions are not considered ''bundled contributions'' under 11 CFR 104.22(a)(6)(ii) unless they have been both received and credited by the candidate or the reporting committee.

The Commission emphasizes that any intentional misrepresentation or misreporting of the reporting committee's actual crediting of bundled contributions is a violation of this rule.

ii. 11 CFR 104.22(a)(6)(ii)(A)—Records, Designations, or Other Means of Recognizing

HLOGA Section 204 requires the disclosure of information about lobbyists/registrants and lobbyist/registrant PACs that are credited by a reporting committee, ''through records, designations or other means of recognizing,'' with having raised contributions in excess of the threshold amount for the reporting committee. 2 U.S.C. 434(i)(8)(A)(ii).

A. Records

HLOGA states that reporting committees may credit lobbyists/registrants or lobbyist/registrant PACs ''through records, designations, or other means of recognizing.'' 2 U.S.C. 434(i)(8)(A)(ii). The NPRM requested commenters to submit examples of ''records, designations or other means of recognizing'' that a lobbyist/registrant or lobbyist/registrant PAC had raised contributions for a reporting committee. NPRM, 72 FR at 62603.

The Commission received one comment addressing the ''records'' aspect of crediting. The comment observed that the proposed rule did not define the type of ''record'' that would trigger the reporting requirement and asked that the final rule indicate the level of specificity or certainty required for a ''record'' to constitute credit.

The Commission has decided to draw from the Federal Rules of Civil Procedure to define ''records'' in new 11 CFR 104.22(a)(6)(ii)(A). ''Records'' means written evidence, which includes writings, charts, computer files, tables, spreadsheets, databases, or other data or data compilations stored in any medium from which information can be obtained. 11 CFR 104.22(a)(6)(ii)(A); *see also* Fed. R. Civ. P. 34. In sum, a ''record'' is any method that the reporting committee uses to retain information pertaining to the committee's crediting, and includes not just paper, but electronic, digital, audio, video, or any other format. The Commission notes that records include informal items such as hand-written notations on a business card.

B. Designations or Other Means of Recognizing

The proposed rules in the NPRM would have defined ''designations or other means of recognizing'' to include ''titles [bestowed upon lobbyists/registrants or lobbyist/registrant PACs] based on levels of fundraising, access to events reserved exclusively for those who generate a certain level of contributions, or similar benefits provided as a reward for successful fundraising.'' NPRM, 72 FR at 62603. The NPRM asked whether ''designations or other means of recognizing'' must be written and sought other examples of crediting through ''designations or other means of recognizing.''

Several comments addressed this issue. All of them asserted that the ''designation or other means of recognizing'' bundled contributions need not be written. Some comments argued that the standard should be one of knowledge by the candidate involved or by the reporting committee that the committee has received a certain amount of bundled contributions raised by a lobbyist/registrant or lobbyist/registrant PAC, but others disagreed.

One comment indicated that additional examples of ''designations and other means of recognizing'' bundled contributions could include (1) being the host or co-host of a

fundraising event; (2) using a lobbyist/registrant's or lobbyist/registrant PAC's office or residence for a fundraising event; or (3) being on a steering committee in exchange for raising a certain amount of money. With respect to the first two suggested examples, the Commission notes that the Section-by-Section Analysis specifically states, ''[t]he disclosure requirement is not triggered * * * where * * * an event is held on the premises of a registrant. An event hosted by a registered lobbyist *may* trigger the disclosure requirement *if* the reporting committee credits the lobbyist with the proceeds of the fundraiser through record, designation, or other form of recognition. * * *'' 153 Cong. Rec. S10709 (daily ed. August 2, 2007) (emphasis added). Thus, the Section-by-Section Analysis indicated that the simple fact that a lobbyist/registrant or lobbyist/registrant PAC hosts a fundraiser or holds a fundraiser on its premises would not, by itself, trigger the reporting requirement.

Two comments cited the Bush ''Pioneer/Ranger model,'' in which bundlers were given titles corresponding with the amounts of money raised, as an example of crediting. One comment also referred to the earmarking standard of ''implied or expressed, oral or written'' designation as analogous to the standard that the Commission should set for what type of designation would constitute crediting. *See* 11 CFR 110.6(b)(1). One comment noted that crediting is not necessarily the same thing as keeping records.

Consistent with the statutory imperative to provide for the broadest possible disclosure consistent with the law (2 U.S.C. 434(i)(5)(D)), the Commission has determined that the phrase ''designations, or other means of recognizing that a certain amount of money has been raised'' is to be construed broadly as encompassing benefits given by the reporting committee to a lobbyist/registrant or lobbyist/registrant PAC for raising a certain amount of contributions.

The Section-by-Section Analysis provides ''honorary titles within the committee'' as an example of ''designations.'' 153 Cong. Rec. at S10709 (daily ed. August 2, 2007). The Commission has incorporated this concept in its regulations. Thus, designations include titles that the reporting committee gives to persons who have raised a certain amount of contributions. 11 CFR 104.22(a)(6)(ii)(A)(1). The titles that various presidential campaigns have given to their fundraisers are examples of such designations. Titles, however, are only one example of a ''designation.''

Similarly, the Commission interprets ''other means of recognizing that a certain amount of money has been raised'' as benefits that reporting committees use to credit lobbyist/registrants or lobbyist/registrant PACs for having raised a certain amount of contributions, and not to include benefits given to such individuals or entities solely for any other reason. The example in the Section-by-Section Analysis is instructive: ''examples of such recognition include access to certain events reserved exclusively for those who generate a certain level of contributions or similar benefits provided by the committee as a reward for successful fundraising.'' 153 Cong. Rec. at S10709 (daily ed. August 2, 2007). Thus, if a reporting committee holds an event in recognition of its fundraisers, to which it invites only persons who raised at least $20,000, invitations to the event would be a means of recognizing that a ''certain amount of money has been raised'' (*i.e.*, at least $20,000). 11 CFR 104.22(a)(6)(ii).

Additionally, a candidate may credit a lobbyist by inviting the lobbyist to an event that is not exclusive to those who generate a certain level of contributions, so long as that particular invitation was extended in recognition of the lobbyist having raised a certain amount of contributions. In contrast, if, for example, an individual who happens to be a lobbyist, but who has not actually raised any money for the reporting committee, is invited to the event, then the invitation to that individual would not constitute crediting with respect to that individual (*i.e.*, a means of recognizing that a certain amount of money has been raised by that individual). On the other hand, if a lobbyist who has raised contributions in excess of the reporting threshold is invited to an event in recognition of the reporting committee's fundraisers, the committee cannot avoid disclosing that lobbyist by claiming that the lobbyist was invited for some other reason.

The Commission agrees with those comments that urged that neither designations nor ''other means of recognizing'' need be in writing. 2 U.S.C. 434(i)(8)(A)(ii). While the inherent nature of ''records'' is that they be in writing, or ''recorded'' in some form, ''designations or other means of recognizing'' need not be. The example in the Section-by-Section Analysis of ''access to certain events reserved exclusively for those who generate a certain level of contributions or similar benefits provided by the committee as a reward for successful fundraising,'' is again instructive. 153 Cong. Rec. at S10709 (daily ed. August 2, 2007). Access to events may be memorialized in records (such as guest lists) but they will not necessarily be so.

New 11 CFR 104.22(a)(6)(ii)(A) expands on the examples suggested in the Section-by-Section Analysis. Thus, ''other means of recognizing'' include tracking identifiers that the reporting committee assigns and that are included on contributions or contribution-related materials (for example, contributor response devices, cover letters, or Internet website solicitation pages) that may be used to maintain information about the amounts of contributions that a person raises. 11 CFR 104.22(a)(6)(ii)(A)(2). Other ''means of recognizing'' also include access, including offers of attendance (invitations) and/or actual attendance, at events given to a lobbyist/registrant or lobbyist/registrant PAC by the reporting committee as a result of the lobbyist/registrant or lobbyist/registrant PAC having raised a certain amount of contributions. 11 CFR 104.22(a)(6)(ii)(A)(3). Another common means of recognizing those who bundle contributions are mementos, such as photographs with the candidate or autographed copies of books authored by the candidate, given by the reporting committee to persons who have raised a certain amount of contributions. 11 CFR 104.22(a)(6)(ii)(A)(4).

The fact that a reporting committee knows that a contribution was raised by a lobbyist/registrant or lobbyist/registrant PAC *and* credits the lobbyist/registrant or lobbyist/registrant PAC through some means of recognition is sufficient to satisfy this final type of credit. The examples listed in the new rule are illustrative, and are designed to give guidance, but do not constitute an exhaustive list. Committees may be creative in how they recognize their fundraisers, and the Commission has no interest in limiting or discouraging creative incentives that are consistent with the law.

The Commission notes that some comments suggested that mere knowledge by a reporting committee that a lobbyist/registrant or lobbyist/registrant PAC has raised funds of a certain amount is enough to constitute credit. Although Congress could have enacted a provision in HLOGA to require reporting if a reporting committee simply ''knows or has reason to know'' that a contribution was raised by a lobbyist/registrant or lobbyist/registrant PAC, without requiring that the reporting committee credit a lobbyist/registrant or lobbyist/registrant PAC for the contribution, neither

HLOGA as enacted, nor the Section-by-Section Analysis, suggested any intent to require reporting in that situation. In several instances similar to this, Congress has used a ''knows or has reason to know'' standard in sections of FECA, but did not do so here. *See, e.g.*, 2 U.S.C. 434(f)(2)(D) (requiring the reporting of names of candidates to be identified in an electioneering communication ''if known''); 2 U.S.C. 434(i)(1) (requiring the reporting of information on each person ''reasonably known'' to be a lobbyist/registrant or lobbyist/registrant PAC); 2 U.S.C. 441a(f) (prohibiting candidates or political committees from ''knowingly'' accepting contributions in violation of FECA); and 2 U.S.C. 441b(a) (prohibiting candidates or political committees from ''knowingly'' accepting or receiving contributions from national banks, corporations, or labor organizations).

Instead, HLOGA as enacted, and as confirmed by the Section-by-Section Analysis, requires credit to be given by the reporting committee to a lobbyist/registrant or lobbyist/registrant PAC before a contribution received from a contributor is considered a ''bundled contribution.'' 2 U.S.C. 434(i)(8)(A)(ii); *see also* 153 Cong. Rec. S10709 (daily ed. August 2, 2007). Therefore, mere knowledge, in and of itself, is not enough. Rather, it is necessary for a reporting committee to credit through ''records, designations, or other means of recognizing that a certain amount of money has been raised'' before reporting is required.

iii. 11 CFR 104.22(a)(6)(ii)(B)—The Candidate Involved

HLOGA requires the disclosure of information about lobbyists/registrants or lobbyist/registrant PACs that are credited by a reporting committee or the ''candidate involved'' with the reporting committee as having raised a ''certain amount'' of contributions for the reporting committee. 2 U.S.C. 434(i)(8)(A)(ii). HLOGA does not define ''candidate involved.''

The Section-by-Section Analysis defines the ''candidate involved'' for each of the three types of reporting committee (*i.e.*, authorized committees of Federal candidates, leadership PACs and political party committees). First, the Section-by-Section Analysis defines the ''candidate involved'' in an authorized committee as ''the candidate for whom the committee is the principal campaign committee.'' 153 Cong. Rec. S10709 (daily ed. August 2, 2007). This definition follows the definition of ''authorized committee'' in FECA, which states that an authorized committee is a political committee authorized by a candidate to receive contributions or make expenditures on behalf of the candidate. 2 U.S.C. 431(6); *see also* 11 CFR 100.5(f)(1). Second, the Section-by-Section Analysis indicates that the ''candidate involved'' in a leadership PAC is ''the candidate who directly or indirectly establishes, finances, maintains or controls the Leadership PAC,'' which tracks the definition of leadership PAC in HLOGA. *See* 2 U.S.C. 434(i)(8)(B); 153 Cong. Rec. S10709 (daily ed. August 2, 2007). Last, the Section-by-Section Analysis also indicates that the ''candidate involved'' in a party committee is the chairman of the party committee. *See* 153 Cong. Rec. S10709 (daily ed. August 2, 2007).

The proposed rules followed the definitions in the Section-by-Section Analysis for authorized committees and leadership PACs, but did not include a definition of ''candidate involved'' in the context of a political party committee.

The only comment that addressed this topic referred to the Section-by-Section Analysis and suggested that the final rules include a definition of ''candidate involved'' with party committees, in addition to those proposed for authorized committees of Federal candidates and for leadership PACs.

The Commission agrees with the comment that a definition of ''candidate involved'' for all three types of reporting committees would provide useful additional guidance to the regulated community. Accordingly, new 11 CFR 104.22(a)(6)(ii)(B) defines ''candidate involved'' in accordance with the Section-by-Section Analysis.

iv. Co-Hosting Fundraisers

Another issue in the NPRM that several comments addressed was how a reporting committee should give credit to multiple lobbyists/registrants or lobbyist/registrant PACs that co-host fundraisers or raise funds for a candidate as a result of any coordinated effort.

Although HLOGA Section 204 did not explicitly address co-hosted fundraisers, in a colloquy on the Senate floor, two Senators stated that there was concern that reporting committees would attempt to avoid the reporting requirements by dividing the total receipts of a fundraising event among many co-hosts on a prorated basis or another allocation method potentially designed to avoid disclosure. 153 Cong. Rec. S10699 (daily ed. August 2, 2007). To prevent this, one Senator stated that where two or more lobbyists/registrants or lobbyist/registrant PACs are co-hosts of a fundraiser, then each lobbyist/registrant or lobbyist/registrant PAC ''should be treated as providing the total amount raised at the event'' for the purposes of reaching the reporting threshold, and for the purposes of reporting ''bundled contributions'' under HLOGA Section 204. *Id.*

The Commission has considered this colloquy in light of the text of HLOGA and the Section-by-Section Analysis, which describes bundled contributions as those where a ''committee or candidate *credits* a registered lobbyist for generating the contributions and where such credit is reflected in some form of record, designation or recognition.'' 153 Cong. Rec. S10709 (daily ed. August 2, 2007) (emphasis added). The Section-by-Section Analysis states that ''[a]n event hosted by a registered lobbyist *may* trigger the disclosure requirement *if the committee credits the lobbyist* with the proceeds of the fundraiser. * * *'' *Id.* (emphasis added).

Three comments urged the Commission to promulgate regulations requiring the reporting committee in all instances to credit each of the hosts for the entire amount raised for purposes of bundling disclosure.

By contrast, a fourth comment argued that crediting each host with the total amount raised would result in inaccurate and misleading reporting of the actual amount raised. This comment indicated a preference for an approach under which credit for the amount raised should be prorated among the fundraiser's co-hosting lobbyists/registrants and lobbyist/registrant PACs. Other comments, however, disagreed, arguing that proration among a fundraiser's co-hosts would enable reporting committees to avoid reporting bundled contributions by increasing the number of co-hosts, such that when the total amount of contributions raised is divided among them, none of the co-hosts would be credited with raising more than the reporting threshold.

Other comments supported the Section-by-Section Analysis. They asserted that the amount of funds a reporting committee actually credits of the funds raised at a fundraiser hosted by multiple lobbyists/registrants and/or lobbyist/registrant PACs is the amount that should be disclosed. One comment noted that the reporting committees know best who they credited for raising bundled contributions at a co-hosted fundraiser, and how much, and that there should not be a regulatory mandate requiring committees to give and report credit in a contrary manner. Moreover, the comment pointed out that an individual may be listed as a ''co-host'' of a fundraiser for many different

reasons unrelated to actual amounts raised from a particular event. Another comment noted that in many cases, to be on a hosting committee, a lobbyist/registrant or lobbyist/registrant PAC is required to raise a certain amount of contributions. The comment stated that if a co-host fails to raise the requisite amount, the reporting committee would not credit that co-host with having raised more than the co-host actually raised. The comment also pointed out that in other situations, where, for example, 25 members of a host committee each raise $3,000, the reporting committee would not credit each co-host with having raised the full $75,000.

After considering the colloquy on the Senate floor, the Section-by-Section Analysis, and the comments received, the Commission concludes that any determination of whether the reporting threshold is met, and how much must be reported, is controlled by (a) whether a reporting committee credits a lobbyist/registrant or lobbyist/registrant PAC for having raised contributions, and (b) how much the reporting committee credits the lobbyist/registrant or lobbyist/registrant PAC with having raised. Both the reporting committee and the fundraiser have independent incentives to ensure that credit for funds raised is properly attributed—on the one hand, the reporting committee is motivated to provide appropriate credit in an effort to encourage the fundraiser to continue raising funds and, on the other hand, the fundraiser is motivated to ensure that the fundraiser is receiving the proper credit for any funds raised. As noted above, the Commission received testimony that committees, in order to have effective fundraising programs, need to know and do know who is raising funds for them and how much those persons are raising. The Commission believes that this dual motivation will result in the accurate reporting of actual credit given.

Requiring a reporting committee to credit the entire amount raised at a fundraiser to each lobbyist/registrant and lobbyist/registrant PAC co-host could be confusing and could lead to the compelled disclosure of potentially misleading information. The requirement could be confusing, because it would involve the creation of two separate and potentially inconsistent definitions of crediting: One to apply in every situation other than co-hosted fundraising events, and the other to apply only in situations involving co-hosted fundraising events. Under the non-co-host definition, a reporting committee would disclose information about a lobbyist/registrant only if the reporting committee actually credits the lobbyist/registrant with having raised contributions exceeding the threshold amount during the covered period. Under the co-host definition, by contrast, a reporting committee would disclose information about a lobbyist/registrant or lobbyist/registrant PAC co-host regardless of whether or how much the reporting committee actually credits the co-host for having raised. Such a result could lead to further confusion as to who is raising contributions, and how much, for reporting committees.

As noted above, the Section-by-Section Analysis provides that ''[a]n event hosted by a registered lobbyist *may* trigger the disclosure requirement *if* the [reporting] committee credits the lobbyist with the proceeds of the fundraiser * * * '' 153 Cong. Rec. S10709 (daily ed. August 2, 2007) (emphasis added). The Commission reads this statement as an expression of legislative intent to apply not only to lobbyists hosting fundraising events or functions, but also to lobbyists that co-hosts the events or functions, regardless of whether such events or functions are formal or informal.

Finally, as discussed below, requiring a reporting committee to credit the entire amount raised at a fundraiser to each lobbyist/registrant and lobbyist/registrant PAC co-host could be potentially misleading. It would require reporting committees to report not only that they credited lobbyist/registrant and lobbyist/registrant PAC co-hosts for raising more money than the co-hosts might actually have raised, but also that they gave the co-hosts credit when, in fact, credit was not given. For example, if a group of individuals consisting of lobbyists and non-lobbyists co-host a fundraiser for a candidate, the candidate's committee would have to report that each of the lobbyists raised the entire amount, without regard to how much the reporting committee credited them for having raised, without regard to how much they might actually have raised, and without regard to the non-lobbyist co-hosts. This could result in committees reporting information that they know to be untrue. One comment stated that treasurers would be reluctant to sign such reports.

The Commission similarly rejected the suggestion that it require credit for the entire amount of contributions raised at a co-hosted fundraising event to be pro-rated among all of the co-hosting lobbyists/registrants and lobbyist/registrant PACs. Not only would such a requirement enable reporting committees to avoid the reporting threshold by increasing the number of co-hosts, as noted by several comments, but it would also raise the same potential for confusion and inaccuracy as would requiring the full amount raised to be credited to each co-host.

Thus, the Commission has decided not to adopt either the suggestion that the total proceeds of a fundraising event be required to be prorated among *all* the co-hosts, or the suggestion that the total proceeds of any event be required to be credited to *each* of the co-hosts. Instead, co-hosted events will be treated like any other fundraising activity: Committees must report the actual amounts raised by and credited to lobbyist/registrants and lobbyist/registrant PACs.

Accordingly, the Commission concludes that reporting committees are in the best position to determine the amount of contributions raised by lobbyists/registrants and their PACs from co-hosted fundraisers, based on the reporting committees' recognition of the amount each person actually raised. This conclusion is consistent with both the language of the statute and the Section-by-Section Analysis.

Contributions raised as the result of a fundraising event hosted by one or more lobbyist/registrants or lobbyist/registrant PACs will follow the general rule in new 11 CFR 104.22(a)(6)(ii), which requires that a contribution be both received by the reporting committee and credited to a lobbyist/registrant or lobbyist/registrant PAC to satisfy the definition of ''bundled contribution.'' The reporting committee must disclose any and all bundled contributions received as the result of a fundraiser that are credited to a lobbyist/registrant or lobbyist/registrant PAC so long as the reporting threshold has been exceeded for that lobbyist/registrant or lobbyist/registrant PAC during the relevant covered period. The following are examples that assume a $16,000 reporting threshold: [13]

Example 1. A fundraising event is co-hosted by Lobbyists A, B and C. The event generates $20,000 in contributions. The reporting committee believes that Lobbyist A raised the entire $20,000 and thus credits Lobbyist A with the entire $20,000 raised at the event, and does not credit Lobbyists B or C. The reporting committee must disclose the $20,000 that has been credited to Lobbyist A. The reporting committee need not disclose any information regarding Lobbyists B and C, because neither Lobbyist B nor C has been credited with any bundled contributions.

[13] For 2009, the applicable reporting threshold is $16,000. Although HLOGA Section 204 set the initial reporting threshold at $15,000, 2 U.S.C. 434(i)(3)(A), this number will be indexed for inflation annually. 2 U.S.C. 434(i)(3)(B); 11 CFR 104.22(g).

Example 2. A fundraising event is co-hosted by Lobbyist A and Lobbyist B, as well as three non-lobbyist hosts. The event generates $20,000 in contributions. The reporting committee gives each host credit for raising $20,000. The reporting committee must disclose the $20,000 of bundled contributions that has been credited to Lobbyist A and also report the $20,000 of bundled contributions that has been credited to Lobbyist B because the reporting committee has credited the full amount to each lobbyist.[14] The reporting committee may, if it chooses, include a memo entry in the space provided on FEC Form 3L to indicate that, although only a total of $20,000 was raised at the event, that full $20,000 was credited to each of the co-hosts, or any other information that the reporting committee wishes to include.

Example 3. A fundraising dinner is co-hosted by Lobbyist A and Lobbyist B, as well as three non-lobbyist hosts. Each host takes responsibility for filling eight seats at $500 a seat. The fundraiser generates $20,000 in contributions from non-hosts, and the reporting committee credits each host with generating $4,000 in contributions. The reporting committee must disclose the $4,000 of bundled contributions that has been credited to Lobbyist A, if the reporting committee also has credited Lobbyist A with more than $12,000 of other bundled contributions during the relevant covered period, thereby causing Lobbyist A to surpass the $16,000 reporting threshold. This same analysis would apply for Lobbyist B.

Example 4. A fundraising event is co-hosted by Lobbyist A and Lobbyist B, as well as three non-lobbyist hosts. The fundraiser generates $21,000 in contributions and the reporting committee knows that Lobbyist A raised $17,000 of the total. The committee credits Lobbyist A with generating $17,000 of the contributions and credits Lobbyist B, as well as the three non-lobbyist hosts as having generated $1,000 each. The reporting committee must disclose the $17,000 of bundled contributions that has been credited to Lobbyist A because this amount is in excess of the $16,000 reporting threshold. The reporting committee must also disclose the $1,000 in bundled contributions that has been credited to Lobbyist B if the reporting committee also has credited Lobbyist B with more than $15,000 of other bundled contributions during the relevant covered period, thereby causing Lobbyist B to surpass the $16,000 reporting threshold.

Example 5. A fundraising event is co-hosted by Lobbyist A and Lobbyist B, as well as three non-lobbyist hosts. The fundraiser generates $20,000 in contributions and the reporting committee knows that Lobbyist A raised $17,000 of the total and that one of the non-lobbyist hosts raised the remaining $3,000. The Committee credits Lobbyist A with generating $17,000 of the contributions. The reporting committee must disclose the $17,000 of bundled contributions that has been credited to Lobbyist A because $17,000 is in excess of the $16,000 reporting threshold. The reporting committee need not disclose any information regarding Lobbyist B because Lobbyist B is not responsible for raising any of the $20,000 raised at the fundraiser and Lobbyist B has not been credited with any bundled contributions.

The Commission notes that the examples and above discussion do not apply to bundled contributions that are *forwarded* by lobbyists/registrants or lobbyist/registrant PACs at co-hosted fundraisers. Credit is not a consideration in the case of forwarded contributions. Accordingly, contributions forwarded by a lobbyist/registrant or lobbyist/registrant PAC at a co-hosted fundraiser count as contributions bundled by the lobbyist/registrant or lobbyist/registrant PAC that forwarded the contributions, regardless of whether the lobbyist/registrant or lobbyist/registrant PAC is a co-host of the fundraiser or an attendee.

For example, at a fundraiser co-hosted by Lobbyist A and several non-lobbyist hosts, Lobbyist B (who is not a co-host of the fundraiser) approaches the candidate for whom funds are being raised and hands the candidate $20,000 in contributions from other individuals. Because these are contributions that have been ''forwarded'' by Lobbyist B, the reporting committee must disclose the $20,000 of bundled contributions that were forwarded by Lobbyist B irrespective of any amount of credit given to Lobbyist B.

If the reporting committee also credits Lobbyist A, a co-host of the fundraiser, $20,000 for having raised the contributions forwarded by Lobbyist B (because the contributions were received during the fundraising event), the reporting committee must then also disclose that $20,000 of bundled contributions has been credited to Lobbyist A. Similar to ''Example 2'' above, even though the reporting committee must disclose the entire $20,000 as having been forwarded by Lobbyist B, the reporting committee must also report that same $20,000 of bundled contributions has been credited to Lobbyist A (again, assuming it has credited Lobbyist A for that amount).

v. Crediting a Prohibited Source

Finally, the NPRM requested comments on whether a lobbyist/registrant that is otherwise prohibited from making or facilitating contributions can be credited by a reporting committee with having raised contributions. Such prohibitions apply to national banks, corporations, labor organizations, foreign nationals, and Federal government contractors. *See* 2 U.S.C. 441b, 441(c), 441(e); 11 CFR 110.6(b)(2)(ii), 110.20, 114.2, 115.2.

Three comments argued that registrants that are prohibited sources of contributions should not be allowed to be credited with having raised contributions. In contrast to these three comments, other comments stated that, while certain entities are prohibited from making contributions, these entities must be reported if, through their agents, they forward contributions to a reporting committee or are credited with raising contributions for a reporting committee above the reporting threshold. This comment further stated that Congress was well aware that many entities that register under the LDA are, in fact, prohibited sources of contributions under FECA, and that these entities may nonetheless be credited with having raised contributions.

The Commission recognizes that under the LDA, registrants include lobbying organizations that would be prohibited sources of contributions under FECA. Congress is presumed to be aware of existing law when it passes legislation. *See Miles* v. *Apex Marine Corp.,* 498 U.S. 19, 32 (1990). Thus, Congress's failure to exempt disclosure about registrants who would be prohibited sources under FECA if they are credited with raising contributions suggests that Congress intended information about them to be reported.

Accordingly, these final rules operate independently of the prohibitions in FECA and Commission regulations on certain entities making and facilitating contributions and acting as conduits or intermediaries. *See, e.g.*, 2 U.S.C. 441b(a); 11 CFR 114.2(f); 11 CFR 110.6(b)(2)(ii). The concept of ''credit'' is distinct from making, facilitating, or serving as a conduit or intermediary for, contributions. A registrant that is a corporation, for example, would be prohibited from facilitating the making of contributions by persons outside of the corporation's restricted class. But if a reporting committee nonetheless credits the corporation for having raised contributions received by that reporting committee, and the amount of contributions exceeds the reporting threshold in a covered period, information about the corporate registrant must be reported.

The Commission emphasizes that the prohibitions in FECA and Commission regulations are not affected by this

[14] The reporting committee would report having received only $20,000 on FEC Form 3 and would provide itemized information on Schedule A related to the $20,000 of received contributions. It is only the credit that is reported twice on FEC Form 3L (*see* section III–B below) and this would be a direct result of the reporting committee having given the full $20,000 credit to two different lobbyists. A reporting committee may give credit to all co-hosts for the full amount raised, but is not required to do so.

rulemaking and continue to apply. The Commission cautions reporting committees against confusing the giving of credit to a registrant that is a prohibited source, which is permissible and may be reportable, with actually accepting contributions from, or that have been forwarded by, a prohibited source, which is not permissible.

c. 11 CFR 104.22(a)(6)(iii)—Bundled Contributions Do Not Include Contributions From Personal Funds of Lobbyists/Registrants or Their Spouses

New 11 CFR 104.22(a)(6)(iii) provides that bundled contributions do not include contributions made by a lobbyist/registrant or lobbyist/registrant PAC from three sources: (1) The personal funds of the lobbyist/registrant who forwards or is credited with raising contributions; (2) the personal funds of that person's spouse; and (3) contributions made by lobbyist/registrant PACs. This provision is consistent with HLOGA, which excludes contributions made to the reporting committee by the lobbyist/registrant or lobbyist/registrant's spouse from counting towards the reporting threshold. *See* 2 U.S.C. 434(i)(3)(A).

The final rule at new 11 CFR 104.22(a)(6)(iii) is nearly identical to the proposed rule, on which the Commission received no comments. The only change from the proposed rule is the application of the rule to contributions made by lobbyist/registrant PACs. New 11 CFR 104.22(a)(6)(iii) extends this exclusion to contributions made by lobbyist/registrant PACs to reflect the fact that lobbyist/registrant PACs, like individuals, may make contributions under FECA in their own right, and the contributions count against the lobbyist/registrant PACs' contribution limits. Contributions made by lobbyist/registrant PACs from committee funds are not bundled contributions, just as contributions made by individual lobbyists from their personal funds are not bundled contributions. Therefore, including contributions by lobbyist/registrant PACs in the exception in new 11 CFR 104.22(a)(6)(iii) is consistent with HLOGA Section 204.

Unlike contributions made by a lobbyist/registrant PAC, or from the personal funds of a lobbyist/registrant or spouse, bundled contributions forwarded by a lobbyist/registrant or lobbyist/registrant PAC will not affect the lobbyist/registrant's or lobbyist/registrant PAC's contribution limits, so long as the lobbyist/registrant or lobbyist/registrant PAC does not exercise any direction or control over the bundled contributions. This result is consistent with the Commission's rule governing earmarked contributions to candidate committees through conduits and intermediaries. *See* 11 CFR 110.6(d).

B. 11 CFR 104.22(b)—Reporting Requirement for Reporting Committees

New 11 CFR 104.22(b) implements HLOGA's reporting provisions by requiring reporting committees to disclose certain information on a new form, FEC Form 3L.

1. 11 CFR 104.22(b)(1)—FEC Form 3L

HLOGA Section 204 requires reporting committees to disclose certain information about each person reasonably known by the reporting committee to be a lobbyist/registrant or lobbyist/registrant PAC that ''provided 2 or more bundled contributions'' aggregating in excess of the reporting threshold to the reporting committee during the covered period. *See* 2 U.S.C. 434(i)(1). New 11 CFR 104.22(b)(1) implements this requirement by requiring reporting committees to file FEC Form 3L, on which reporting committees must disclose the name and address of the lobbyist/registrant or lobbyist/registrant PAC, the employer of the lobbyist/registrant (for individual lobbyists/registrants), and the aggregate amount of bundled contributions provided by the lobbyist/registrant or lobbyist/registrant PAC during the covered period. *Cf.* 2 U.S.C. 434(i)(1).

Accordingly, for each covered period, a reporting committee must disclose information about each lobbyist/registrant or lobbyist/registrant PAC that provided the committee with ''[two] or more bundled contributions'' aggregating in excess of the reporting threshold during the covered period, regardless of whether those contributions consist of (1) only ''forwarded'' contributions, (2) only ''received and credited'' contributions, or (3) some combination of the two types of bundled contributions, and regardless of whether those contributions were forwarded or received either (1) one-by-one during the covered period or (2) all at once.

The final rule requires the reporting committee to disclose the aggregate amount of bundled contributions ''forwarded by or received and credited to,'' rather than the amount ''provided by,'' each lobbyist/registrant or lobbyist/registrant PAC as was proposed in the NPRM. This change was made to enhance precision and clarity and is not a substantive change. Otherwise, the provisions are the same as those in the proposed rule. The Commission received no comments on the proposed provision.

2. Bundled Contributions That are Returned or Refunded

i. Returned Contributions

If a bundled contribution is not deposited and is, instead, returned pursuant to 11 CFR 103.3(a) and (b), 110.1(b)(3)(i), 110.2(b)(3)(i), or 110.4(c)(2), then it does not aggregate toward the reporting threshold for disclosure of bundled contributions and it does not have to be reported on the reporting committee's Form 3L.

ii. Refunded Contributions

If a bundled contribution is received, deposited, and later refunded pursuant to 11 CFR 102.9(e), 103.3(b)(3), 110.1(b)(3)(i) or 110.2(b)(3)(i), or for any other reason, then the bundled contribution does aggregate toward the reporting threshold for the covered period in which it was received. Accordingly, it must be reported on the reporting committee's Form 3L if the reporting threshold is exceeded for that covered period. *See* 2 U.S.C. 434(i)(1); 11 CFR 104.22(b)(1). If the receipt of the bundled contribution is reported on Form 3L, then the refund of the bundled contribution should also be reported on Form 3L for the covered period in which the refund occurred.

3. 11 CFR104.22(b)(2)—Determining Whether a Person is Reasonably Known to be a Lobbyist/Registrant or Lobbyist/Registrant PAC

HLOGA Section 204 requires the disclosure of information about a person who forwards, or who is credited with having raised, two or more bundled contributions aggregating in excess of the reporting threshold during the covered period if the person is ''reasonably known by the [reporting] committee to be'' a lobbyist/registrant or a lobbyist/registrant PAC. 2 U.S.C. 434(i)(1). HLOGA also requires the Commission to ''provide guidance to [reporting] committees with respect to whether a person is reasonably known by a committee to be'' a lobbyist/registrant or lobbyist/registrant PAC. 2 U.S.C. 434(i)(5)(B). In so doing, the Commission is to include a ''requirement that [reporting] committees consult the websites maintained by the Secretary of the Senate and the Clerk of the House of Representatives containing information filed pursuant to the Lobbying Disclosure Act of 1995.'' 2 U.S.C. 434(i)(5)(B).

The Commission proposed 11 CFR 104.22(b)(2) to provide guidance with respect to how reporting committees

would comply with these requirements. Specifically, under the proposed rule, reporting committees would have had to consult the websites maintained by the Clerk of the House of Representatives, the Secretary of the Senate, and the Federal Election Commission in order to determine whether a person is identified on a filing under the LDA or FECA as a registrant, a lobbyist, or a political committee established or controlled by a registrant or lobbyist. The NPRM requested suggestions as to other sources that reporting committees might be required to check to determine whether a contributor is a lobbyist/registrant or a lobbyist/registrant PAC.

The Commission received two comments in response, both supporting the proposed rule. One comment also recommended amending the proposed rule to provide a safe harbor, such that a reporting committee will be deemed to have complied with the regulation if it relies on the websites for purposes of determining whether a person is a lobbyist/registrant or lobbyist/registrant PAC. *See* discussion below of section 104.22(b)(2)(ii).

Consistent with the proposed rule, the final rule at 11 CFR 104.22(b)(2)(i) requires reporting committees to consult the House, Senate and Commission websites to determine if a person is a lobbyist/registrant or lobbyist/registrant PAC. If a person is listed on any of these websites as a lobbyist/registrant or lobbyist/registrant PAC, then the person is ''reasonably known to be'' a lobbyist/registrant or lobbyist/registrant PAC, and information about the person is subject to the reporting requirement of 11 CFR 104.22(b).

The House and Senate Web sites identify registered lobbyists and registrants. The websites also list political committees disclosed as being established or controlled by lobbyists/registrants on their semi-annual reports of contributions to candidates and Federal officeholders and donations to related entities. These political committees are ''lobbyist/registrant PACs'' under new 11 CFR 104.22(a)(4)(i). To ensure that reporting committees have the most up-to-date information available about lobbyist/registrant PACs, and to provide information about lobbyist/registrant PACs that are unable to ascertain from the Secretary of the Senate or Clerk of the House of Representatives whether they are established or controlled by a lobbyist/registrant, but which meet the Commission's additional ''established or controlled'' criteria under 11 CFR 104.22(a)(4)(ii), these final rules require reporting committees to check the Commission's Web site as well. Any political committee that is ''established or controlled'' by a lobbyist/registrant must identify itself as such on its Statement of Organization (FEC Form 1), which will be posted on the Commission's website. *See* 11 CFR 104.22(c), discussed below.

Each reporting committee must consult the House, Senate, and Commission websites ''in a manner reasonably calculated to find the name of each person who is a lobbyist/registrant or lobbyist/registrant PAC.'' 11 CFR 104.22(b)(2)(i). The Commission recognizes that reporting committees that have exercised due diligence in searching House, Senate, and Commission Web sites must be able to rely on the results of their searches. Under new 11 CFR 104.22(b)(2)(i), a reporting committee will not be deemed to have ''reasonably known'' about the status of a lobbyist/registrant or lobbyist/registrant PAC whose name the committee did not find in searching the House, Senate, and Commission Web sites, so long as the reporting committee performs its searches in a manner reasonably calculated to find the name of each lobbyist/registrant or lobbyist/registrant PAC listed on the Web sites.

New 11 CFR 104.22(b)(2)(ii) provides that a computer printout or screen capture showing the absence of the person's name on the House, Senate, or Commission Web sites on the date in question, may be used to demonstrate that the reporting committee consulted the required Web sites in a manner reasonably calculated to find the name of each person who is a lobbyist/registrant or lobbyist/registrant PAC, and did not find the name of the person in question. This provision allows reporting committees to rely on the results of website searches, provided that the printout shows that the search history utilized by the reporting committee to verify that the search was performed in a manner reasonably calculated to find the name of the person in question, as discussed above. Such a computer printout or screen capture constitutes conclusive evidence that the reporting committee has consulted the websites and not found the name of the person sought. Accordingly, except as described below, such evidence demonstrates that a person was not reasonably known by the reporting committee to be a lobbyist/registrant or lobbyist/registrant PAC for the purposes of 11 CFR 104.22(b)(1). A reporting committee also may provide other credible evidence to show that it has consulted the websites in compliance with 11 CFR 104.22(b)(2)(i).

Notwithstanding new 11 CFR 104.22(b)(2)(ii), a reporting committee is not entitled to rely on the results of a website search if the reporting committee knows that the person who forwarded or is credited with raising contributions is a lobbyist/registrant or lobbyist/registrant PAC. New 11 CFR 104.22(b)(iii) provides that a reporting committee is required to report bundled contributions forwarded by or received and credited to a person that the reporting committee actually knows is a lobbyist/registrant or lobbyist/registrant PAC as defined in 11 CFR 104.22(a)(2) or (a)(3), even if the reporting committee consulted the Web sites in accordance with 11 CFR 104.22(b)(2)(i) and (2)(ii), and did not find the person's name on any of the Web sites. A reporting committee is deemed to have actual knowledge if the candidate involved, the treasurer of the reporting committee, or any members of the reporting committee's staff who are responsible for verifying the accuracy of Form 3L have actual knowledge that the person who forwarded or is credited with raising contributions is required to be listed as a lobbyist/registrant or lobbyist/registrant PAC.

C. 11 CFR 104.22(c)—Lobbyist/Registrant PAC Reporting Requirements

Prior to HLOGA, the Commission required political committees to identify themselves as only one type of political committee on their Statements of Organization. *See* FEC Form 1 Statement of Organization, Question 5 (''Type of Committee'').

The NPRM sought comments on how, going forward, an organization that is both an SSF and a ''lobbyist/registrant PAC'' should identify itself on its Statement of Organization, and whether one type of registration should control or whether political committees should identify themselves as both types. The Commission received no comments on this issue.

To promote the greatest disclosure and to accommodate entities that qualify as more than one type of political committee, the Commission is revising FEC Form 1 to make it possible for committees to identify themselves as more than one type of political committee. Under new 11 CFR 104.22(c), all new leadership PACs and lobbyist/registrant PACs that register with the Commission after the effective date of this rule (30 days after publication in the **Federal Register**) must check all appropriate boxes on FEC Form 1, in accordance with 11 CFR 102.2(a)(1). *See* 11 CFR 100.5(e)(6) (definition of leadership PAC) and 11 CFR 104.22(a)(3) (definition of lobbyist/registrant PAC). Leadership PACs and lobbyist/registrant PACs already

registered with the Commission must amend their FEC Form 1 in accordance with 11 CFR 102.2(a)(2) no later than ten days after the effective date of this rule (ten days after the thirty-day period from the date of publication of these rules in the **Federal Register**).

D. 11 CFR 104.22(d)—Where to File

New section 104.22(d) requires reporting committees to file FEC Form 3L in accordance with 11 CFR Part 105. Under 11 CFR Part 105, authorized committees of candidates for the House of Representatives, the principal campaign committees of presidential candidates, and any other political committees that support such candidates must file reports with the Commission. *See* 11 CFR 105.1, 105.3 and 105.4. Authorized committees of candidates for the Senate and any other political committees that support *only* Senate candidates must file their reports with the Secretary of the Senate. *See* 11 CFR 105.2. The Commission requested but received no comments on this provision in the NPRM.

E. 11 CFR 104.22(e)—When to File

Under HLOGA Section 204, the first report required to be filed by a reporting committee under 2 U.S.C. 434 and 11 CFR Part 104.5 after each covered period must set forth the name, address, and employer of each person reasonably known by the committee to be a lobbyist/registrant or lobbyist/registrant PAC who provided two or more bundled contributions to the reporting committee in an aggregate amount greater than the threshold amount during the reporting period. *See* 2 U.S.C. 434(i)(1).

New 11 CFR 104.22(e) implements this provision of HLOGA. It provides that reporting committees must file Form 3L with the first campaign finance report that they file under 11 CFR 104.5 following the end of each covered period.

New 11 CFR 104.22(e) mirrors the proposed rule, on which the Commission requested comments in the NPRM. No comments addressed this section of the proposed rule specifically, although many did comment on the related ''covered period'' definition.

As discussed above, new 11 CFR 104.22(a)(5) defines the term ''covered period'' as the semi-annual periods of January 1 through June 30 and July 1 through December 31, and as the periods that coincide with a reporting committee's monthly or quarterly campaign finance reporting periods under 11 CFR 104.5. Accordingly, reporting committees must file Form 3L to disclose information about any lobbyist/registrant or lobbyist/registrant PAC that forwards, or is credited by the reporting committee for having raised, bundled contributions that aggregate in excess of the reporting threshold semi-annually and at the end of each reporting period under 2 U.S.C. 434 and 11 CFR 104.5.

When a reporting committee is required to file pre- and post-election reports under 2 U.S.C. 434 and 11 CFR 104.5, each of those reporting periods constitutes a new covered period. Accordingly, the reporting committee must also file FEC Form 3L for those periods if it receives bundled contributions in excess of the reporting threshold during those periods. Similarly, when a reporting committee is required to file reports in connection with special elections, under 11 CFR 104.5(h), or runoff elections, each of those reporting periods constitutes a new covered period, and the reporting committee must file FEC Form 3L if it receives bundled contributions in excess of the reporting threshold during those periods.

F. 11 CFR 104.22(f)—Recordkeeping

Commission regulations implement certain statutory recordkeeping requirements that also apply to certain bundled contributions. For example, political committees must keep a record and account of each contribution exceeding $50 for three years after filing the report to which the record or account relates. *See* 2 U.S.C. 432(c)(2) and (d); 11 CFR 102.9(a) and (c). In addition, any person who receives and forwards contributions to any political committee must also forward certain information about the original contributor. *See* 2 U.S.C. 432(c) and 441a(a)(8); 11 CFR 102.8(c). Any authorized committee that receives contributions forwarded by a ''conduit'' or ''intermediary'' must also maintain records regarding the information forwarded with the contributions by the conduit or intermediary. *See* 11 CFR 110.6(c) and 102.9(c).

New 11 CFR 104.22(f) refers to the existing recordkeeping requirements in Commission regulations at 11 CFR 102.8, 102.9 and 110.6. The new provisions also require reporting committees to maintain for three years after filing a report, records of any bundled contributions forwarded by or received and credited to a lobbyist/registrant or lobbyist/registrant PAC that aggregate in excess of the reporting threshold for any covered period. The rule requires reporting committees to maintain records that document the name and address of the lobbyist/registrant or lobbyist/registrant PAC, the employer of the lobbyist/registrant (if an individual), and the aggregate amount of bundled contributions forwarded by or received and credited to each lobbyist/registrant or lobbyist/registrant PAC by the reporting committee during the covered period.

The rule requires only the maintenance of documentation with respect to the matters required to be reported, which shall provide in sufficient detail the necessary information and data from which the filed reports may be verified, explained, clarified, and checked for accuracy and completeness. If a committee is not required to file such a report because it has not received any contributions meeting the definition of ''bundled contributions'' under this section, then the new recordkeeping provision does not apply. Additionally, the new recordkeeping provision does not require reporting committees to create records the committee would not otherwise have created under its usual fundraising and accounting practices. These provisions are similar to the provisions in proposed 11 CFR 104.22(e), on which the Commission received no comments.

G. 11 CFR 104.22(g) and 110.17(e)(2) and (f)—Price Index Increase

New 11 CFR 104.22(g) requires that the disclosure threshold for reporting bundled contributions be indexed by applying a price index increase similar to the price index increase applied to contribution limitations in FECA and Commission regulations. These final rules also add a cross-reference to 11 CFR 104.22(g) in 11 CFR 110.17(e)(2) and (f), which governs the price index increases for certain contribution and expenditure limitations under FECA.

1. 11 CFR 104.22(g)—Price Index Increase

HLOGA Section 204 requires that the reporting threshold be indexed for inflation annually, using the Consumer Price Index as verified by the Secretary of Labor, with 2006 as the ''base period.'' *See* 2 U.S.C. 434(i)(3)(B). New 11 CFR 104.22(g) implements this provision by requiring that the initial $15,000 disclosure threshold be indexed in the same manner as certain contribution limits under FECA and Commission regulations. *See* 2 U.S.C. 441a(c) and 11 CFR 110.17. The Commission has placed this provision in new 11 CFR 104.22 rather than in 11 CFR 110.17, which contains similar indexing provisions, because the dollar amount here is a threshold for disclosure, rather than the contribution

and expenditure limits covered under 11 CFR Part 110.

New 11 CFR 104.22(g) is the same as the one proposed by the Commission in the NPRM. The Commission requested but received no comments on it.

The NPRM also requested but received no comments on the timing of the application of the indexing for inflation requirement. HLOGA Section 204 provides that the indexing requirement ''shall apply'' to the reporting threshold ''[i]n any calendar year after 2007.'' 2 U.S.C. 434(i)(3)(B). HLOGA also provides, however, that 2 U.S.C. 434(i) will go into effect ''with respect to reports filed * * * after the expiration of the 3-month period which begins on the date that the regulations required to be promulgated by the Commission [under new 2 U.S.C. 434(i)] become final.'' Pub. L. No. 110–81, sec. 204(b), 121 Stat. 735 at 746 (2007). Given that these rules are expected to go into effect in March 2009, the initial $15,000 reporting threshold provided for in HLOGA Section 204 will be indexed for 2009. The Commission will publish a notice of the 2009 reporting threshold in the **Federal Register** and on the Commission's Web site in accordance with new 11 CFR 110.17(e)(2), discussed below.

2. 11 CFR 110.17(e)(2) and 110.17(f)—Price Index Increase

Current 11 CFR 110.17 governs the price index increases for certain contribution and expenditure limitations, as well as the publication of those limitations on a biennial basis. While the bundling disclosure dollar threshold is not a contribution or expenditure limit, it is indexed for inflation on an annual basis, in the same manner as the limitations in 11 CFR 110.17 are indexed biennially. The Commission concluded that it would be helpful to the regulated community to place a cross-reference in 11 CFR 110.17 to the indexing provision in new 11 CFR 104.22(f). Accordingly, the Commission is adding a cross-reference in new 11 CFR 110.17(f) to new 11 CFR 104.22(g). Additionally, as an aid to providing the new annual threshold to the regulated community, the Commission has added new 110.17(e)(2), requiring the lobbyist/registrant bundling threshold to be published in the **Federal Register** annually and posted on the Commission's Web site.

H. Application of Rule to In-Kind Contributions

The NPRM requested comments on whether the new rules should apply to in-kind contributions as well as monetary contributions. No comments addressed this issue.

HLOGA uses the term ''contributions.'' *See* 2 U.S.C. 434(i)(1). FECA and Commission regulations define ''contributions'' as including in-kind contributions. *See* 2 U.S.C. 431(8)(A)(i) and 11 CFR 100.51(a), 100.52, 100.54, 100.56, 109.21. Nothing in HLOGA or its legislative history suggests that ''contributions'' is intended to have a different meaning from that already established in FECA and Commission regulations. Thus, the Commission determined that these rules apply to both in-kind and monetary contributions. For example, if a lobbyist/registrant asked several contributors to send monetary contributions to a reporting committee and asked others to send computers, furniture, and office supplies to the reporting committee, with a total aggregate value of monetary and in-kind contributions exceeding the reporting threshold during the covered period, and the reporting committee credited the lobbyist/registrant with having raised the contributions, then the reporting committee would have to file Form 3L disclosing information about the lobbyist/registrant for the covered period.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

The Commission certifies that the attached final rules do not have a significant economic impact on a substantial number of small entities. The basis for this certification is that few, if any, small entities will be affected by these rules, which apply only to Federal candidates and their campaign committees, political committees established, financed, maintained or controlled by Federal candidates or individuals holding Federal office, political committees of political parties, and political committees established or controlled by lobbyist/registrants. Authorized committees of Federal candidates are not considered small entities under the definition at 5 U.S.C. 601(6). Leadership PACs established, financed, maintained or controlled by Federal candidates or individuals holding Federal office also do not qualify as small entities. Such committees, while established by an individual, are not independently owned and operated because they are not financed and controlled by a small identifiable group of individuals; rather, they rely on contributions from a variety of persons to fund the committees' activities. Political committees representing the Democratic and Republican parties have a major controlling influence within the political arena and are thus dominant in their field. However, to the extent that any party committees representing major or minor political parties or any other political committees might be considered ''small organizations,'' the number that would be affected by this rule is not substantial.

Additionally, any separate segregated funds that are affected by these rules are not-for-profit political committees that do not meet the definition of ''small organization'' because they are financed by a combination of individual contributions and financial support for certain expenses from corporations, labor organizations, membership organizations, or trade associations, and therefore are not independently owned and operation. Most of the other political committees that are affected by these rules are not-for-profit committees that do not meet the definition of ''small organization.'' Most political committees are not independently owned and operated because they are not financed by a small identifiable group of individuals. In addition, most political committees rely on contributions from a large number of individuals to fund the committees' operations and activities.

Furthermore, any small entities affected should not feel a significant economic impact from the final rule. The activity being regulated (receiving bundled contributions that have been forwarded by, or that have been raised by and credited to, lobbyists/registrants or lobbyist/registrant PACs) is entirely voluntary. Any reporting obligations for reporting committees are triggered only if entities choose to engage in this activity above *the reporting threshold* for any given covered period. The reporting obligations for reporting committees are also limited to contributions either forwarded by or raised by and credited to lobbyists/registrants or lobbyist/registrant PACs. The reporting requirement for lobbyist/registrant PACs is limited to the political committee disclosing itself as a lobbyist/registrant PAC on the political committee's initial Form 1 (Statement of Organization) filed with the Commission, or to filing a single amendment to the political committee's Form 1. Therefore, the final rules do not have a significant economic impact on a substantial number of small entities.

List of Subjects

11 CFR Part 100

Elections.

11 CFR Part 104

Campaign funds, political committees and parties, reporting and recordkeeping requirements.

11 CFR Part 110

Campaign funds, political committees and parties.

■ For the reasons set out in the preamble, the Federal Election Commission is amending Subchapter A of Chapter 1 of Title 11 of the *Code of Federal Regulations* as follows:

PART 100—SCOPE AND DEFINITIONS (2 U.S.C. 431)

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

Authority: 2 U.S.C. 431, 434, and 438(a)(8).

■ 2. Section 100.5 is amended by adding new paragraphs (e)(6) and (7) to read as follows:

§ 100.5 Political committee (2 U.S.C. 431(4), (5), (6)).

* * * * *

(e) * * *

(6) *Leadership PAC. Leadership PAC* means a political committee that is directly or indirectly established, financed, maintained or controlled by a candidate for Federal office or an individual holding Federal office but which is not an authorized committee of the candidate or individual and which is not affiliated with an authorized committee of the candidate or individual, except that leadership PAC does not include a political committee of a political party.

(7) *Lobbyist/Registrant PAC. See* 11 CFR 104.22(a)(3).

* * * * *

PART 104—REPORTS BY POLITICAL COMMITEES AND OTHER PERSONS (2 U.S.C. 434)

■ 3. The authority citation for part 104 continues to read as follows:

Authority: 2 U.S.C. 431(1), 431(8), 431(9), 432(i), 434, 438(a)(8) and (b), 439a, 441a, and 36 U.S.C. 510.

■ 4. Section 104.22 is added to read as follows:

§ 104.22 Disclosure of bundling by Lobbyists/Registrants and Lobbyist/Registrant PACs (2 U.S.C. 434(i)).

(a) *Definitions.*

(1) *Reporting Committee. Reporting committee* means:

(i) An authorized committee of a Federal candidate as defined at 11 CFR 100.5(f)(1);

(ii) A leadership PAC as defined at 11 CFR 100.5(e)(6); or

(iii) A party committee as defined at 11 CFR 100.5(e)(4).

(2) *Lobbyist/Registrant. Lobbyist/registrant* means a person who, at the time a contribution is forwarded to, or is received by, a reporting committee, is:

(i) A current registrant under Section 4(a) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1603(a)); or

(ii) An individual who is named on a current registration or current report filed under Section 4(b)(6) or 5(b)(2)(C) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1603(b)(6) or 1604(b)(2)(C)).

(3) *Lobbyist/Registrant PAC. Lobbyist/registrant PAC* means any political committee that a lobbyist/registrant ''established or controls,'' as defined in paragraph (a)(4) of this section.

(4) *Established or Controls.*

(i) For purposes of this section only, a lobbyist/registrant established or controls any political committee that the lobbyist/registrant is required to disclose to the Secretary of the U. S. Senate or Clerk of the U.S. House of Representatives as being established or controlled by that lobbyist/registrant under Section 203 of the Honest Leadership and Open Government Act of 2007, amending the Lobbying Disclosure Act of 1995 (2 U.S.C. 1604(d)(1)(C)).

(ii) If, after consulting guidance from the offices of the Secretary of the Senate or Clerk of the U.S House of Representatives, or communicating with such offices, a political committee is unable to ascertain whether it is established or controlled by a lobbyist/registrant, a lobbyist/registrant will be deemed to have established or to control a political committee if:

(A) The political committee is a separate segregated fund with a current registrant under Section 4(a) of the Lobbying Disclosure Act (2 U.S.C. 1603(a)) as its connected organization; or

(B) The political committee meets either of the following criteria:

(*1*) A lobbyist/registrant had a primary role in the establishment of the political committee, excluding the provision of legal or compliance services or advice; or

(*2*) A lobbyist/registrant directs the governance or operations of the political committee, excluding the provision of legal or compliance services or advice.

(5) *Covered Period. Covered period* means:

(i) *Semi-annually.* The semi-annual periods of January 1 through June 30, and July 1 through December 31; and the period described in paragraph (a)(5)(ii), (iii) or (iv), below, that applies to the reporting committee.

(ii) *Quarterly.* For reporting committees that file campaign finance reports under 11 CFR 104.5 on a quarterly basis, the covered period also includes the quarters beginning on January 1, April 1, July 1, and October 1 of each calendar year and the applicable pre- and post-election reporting periods in election years; in a nonelection year, reporting committees not authorized by a candidate need only observe the semi-annual period described in paragraph (a)(5)(i) above; or

(iii) *Monthly.* For reporting committees that file monthly campaign finance reports under 11 CFR 104.5, the covered period also includes each month in the calendar year, except that in election years the pre- and post-general election reporting periods shall constitute the covered period in lieu of the monthly November and December reporting periods.

(iv) *Alternative for monthly filers.* Any reporting committee that files monthly campaign finance reports under 11 CFR 104.5 may choose to file reports pursuant to the quarterly covered period in paragraph (a)(5)(ii) of this section instead of the monthly covered period in paragraph (a)(5)(iii) of this section. It shall do so by notifying the Commission in writing of its intention to do so at the time the reporting committee files a monthly report under paragraph (a)(5)(iii) of this section. The reporting committee will be required to file its next report under the new filing frequency. The reporting committee may change its filing frequency no more than once per calendar year.

(v) *Runoffs and Special Elections.* For special elections and runoff elections set by State law, the covered period shall be the same as the reporting periods set under 11 CFR 104.5(h).

(6) *Bundled Contribution. Bundled contribution* means any contribution that meets the definition set forth in either paragraph (i) or (ii) below:

(i) *Forwarded contribution* means a contribution delivered or transmitted, by physical or electronic means, to the reporting committee by a lobbyist/registrant or lobbyist/registrant PAC, or by any person that the reporting committee knows to be forwarding such contribution on behalf of a lobbyist/registrant or lobbyist/registrant PAC.

(ii) *Received and credited contribution* means a contribution received by the reporting committee from the contributor or contributors, and credited by the reporting committee or candidate involved to a lobbyist/registrant or lobbyist/registrant PAC through records, designations, or other means of recognizing that a certain

amount of money has been raised by the lobbyist/registrant or lobbyist/registrant PAC.

(A) *Records, designations, or other means of recognizing. Records* means written evidence (including writings, charts, computer files, tables, spreadsheets, databases, or other data or data compilations stored in any medium from which information can be obtained) that the reporting committee or candidate involved attributes to a lobbyist/registrant or lobbyist/registrant PAC contributions raised by that person or entity and received by the reporting committee.

Designations or other means of recognizing bundled contributions means benefits given by the reporting committee to persons for raising a certain amount of contributions, including but not limited to:

(1) Titles that the reporting committee assigns to persons who have raised a certain amount of contributions;

(2) Tracking identifiers that the reporting committee assigns and that are included on contributions or contributions-related materials (for example, contributor response devices, cover letters, or Internet Web site solicitation pages) for the purpose of maintaining information about the amounts of contributions that a person raises;

(3) Access (including offers or attendance) to events or activities given to the lobbyist/registrant or lobbyist/registrant PAC by the reporting committee as a result of raising a certain amount of contributions; and

(4) Mementos, such as photographs with the candidate or autographed copies of books authored by the candidate, given by the reporting committee to persons who have raised a certain amount of contributions.

(B) *The candidate involved. The candidate involved* means the candidate by whom the authorized committee is authorized; the candidate or individual holding Federal office who directly or indirectly established, finances, maintains or controls the leadership PAC; or the chairman of the committee in the case of a political party committee.

(iii) Bundled contributions do not include contributions made by the lobbyist/registrant PAC or from the personal funds of the lobbyist/registrant that forwards or is credited with raising the contributions or the personal funds of that person's spouse.

(b) *Reporting requirement for reporting committees.*

(1) *FEC Form 3L.* Each reporting committee must file FEC Form 3L (Report of Contributions Bundled by Lobbyist/Registrants and Lobbyist/Registrant PACs) if it has received two or more bundled contributions (*see* paragraph (a)(6)) forwarded by or received and credited to a person reasonably known by the reporting committee to be a lobbyist/registrant or lobbyist/registrant PAC aggregating in excess of $15,000 during the covered period. The form shall set forth:

(i) The name of each lobbyist/registrant or lobbyist/registrant PAC;

(ii) The address of each lobbyist/registrant or lobbyist/registrant PAC;

(iii) The employer of each lobbyist/registrant; and

(iv) The aggregate amount of bundled contributions forwarded by or received and credited to each lobbyist/registrant or lobbyist/registrant PAC by the reporting committee during the covered period.

(2) *Determining whether a person is reasonably known to be a lobbyist/registrant or lobbyist/registrant PAC.*

(i) In order to comply with paragraph (b)(1) of this section, a reporting committee must consult, in a manner reasonably calculated to find the name of each person who is a lobbyist/registrant or lobbyist/registrant PAC, the Web sites maintained by the Clerk of the House of Representatives, the Secretary of the Senate, and the Federal Election Commission to determine whether, at the time a contribution was forwarded to, or received by, the reporting committee:

(A) The person was listed as a current registrant under Section 4(a) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1603(a));

(B) The person was an individual listed on a current registration filed under Section 4(b)(6) or a current report filed under Section 5(b)(2)(C) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1603 or 1604);

(C) The person identified itself as a lobbyist/registrant PAC on its Statement of Organization, FEC Form 1, filed with the Commission; or

(D) The person was listed as a political committee established or controlled by a lobbyist or registrant on a report filed under Sec. 203(a) of the Honest Leadership and Open Government Act of 2007, amending the Lobbying Disclosure Act of 1995 (2 U.S.C. 1604).

(ii) A manner reasonably calculated to find the name of each person who is a lobbyist/registrant or lobbyist/registrant PAC may be demonstrated by the reporting committee producing a computer printout or screen capture from a Web browser indicating that the name of the person sought was not listed in the results of the Web site consultations performed in accordance with paragraph (b)(2)(i) of this section. Such a computer printout or screen capture shall constitute conclusive evidence that the reporting committee has consulted such Web sites and not found the name of the person sought, but shall not be the exclusive means by which the reporting committee may provide evidence that it has consulted such Web sites and not found the name of the person sought.

(iii) A reporting committee shall be subject to the reporting requirement under paragraph (b)(1) of this section if it had actual knowledge that, at the time a contribution was forwarded or received, the person whose name is sought was required to be listed on any registration or report described in paragraph (b)(2)(i) of this section.

(c) *Lobbyist/Registrant PAC reporting requirements.* Any political committee that is a lobbyist/registrant PAC as defined in paragraph (a)(3) of this section must identify itself as such on FEC Form 1 either upon registration with the Commission if it is a new political committee, or by amendment in accordance with 11 CFR 102.2(a)(2) if it is a political committee registered with the Commission.

(d) *Where to file.* Reporting committees shall file either with the Secretary of the Senate or with the Federal Election Commission in accordance with 11 CFR Part 105.

(e) *When to file.* Reporting committees must file the forms required under this section with the first report that they file under 11 CFR 104.5 following the end of each covered period.

(f) *Recordkeeping.* In addition to any requirements to maintain records and accounts under 11 CFR 102.8, 102.9 and 110.6, each reporting committee must maintain for three years after the filing of the report to which the information relates a record of any bundled contributions (*see* 11 CFR 104.22(a)(6)) provided by a lobbyist/registrant or lobbyist/registrant PAC that aggregate in excess of $15,000 for any covered period. The information required to be maintained is:

(1) The name and address of the lobbyist/registrant or lobbyist/registrant PAC;

(2) The employer of the lobbyist/registrant; and

(3) The aggregate amount of bundled contributions forwarded by or received and credited to each lobbyist/registrant or lobbyist/registrant PAC by the reporting committee during the covered period.

(g) *Price index increase.*

(1) The threshold for reporting bundled contributions established in

paragraph (b)(1) of this section shall be increased by the percent difference between the price index as defined at 11 CFR 110.17(d), as certified to the Commission by the Secretary of Labor, for the 12 months preceding the beginning of the calendar year and the price index for the base period.

(2) Each contribution bundling threshold so increased shall be the threshold in effect for that calendar year.

(3) For purposes of this paragraph (g), the term base period means calendar year 2006.

(4) If any amount after the increases under this paragraph (g) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100.

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

■ 3. The authority citation for part 110 is revised to read as follows:

Authority: 2 U.S.C. 431(8), 431(9), 432(c)(2), 434(i)(3), 438(a)(8), 441a, 441b, 441d, 441e, 441f, 441g, 441h and 36 U.S.C. 510.

■ 4. In section 110.17, paragraph (e) is revised and paragraph (f) is added to read as follows:

§ 110.17 Price index increase.

* * * * *

(e) *Publication of price index increases.*

(1) *Expenditure and Contribution Limitations.* In every odd-numbered year, the Commission will publish in the **Federal Register** the amount of the expenditure and contribution limitations in effect and place such information on the Commission's Web site.

(2) *Lobbyist/registrant and lobbyist/registrant PAC contribution bundling disclosure threshold.* In every calendar year, the Commission will publish in the **Federal Register** the amount of the lobbyist/registrant and lobbyist/registrant PAC contribution bundling disclosure threshold in effect and place such information on the Commission's Web site.

(f) *Price index increases for lobbyist/registrant and lobbyist/registrant PAC contribution bundling threshold.* The threshold for disclosure of lobbyists/registrants and lobbyist/registrant PACs that bundle contributions shall be indexed for each calendar year in accordance with 11 CFR 104.22(g).

Dated: February 5, 2009.

On behalf of the Commission,

Steven T. Walther,

Chairman, Federal Election Commission.

[FR Doc. E9–2838 Filed 2–13–09; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1250

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Part 1773

RIN 2590–AA09

Flood Insurance

AGENCIES: Federal Housing Finance Agency; Office of Federal Housing Enterprise Oversight.

ACTION: Final Regulation; correction.

SUMMARY: The Federal Housing Finance Agency (FHFA) is correcting the final Flood Insurance Regulation, published in the **Federal Register** on January 15, 2009 (74 FR 2347), by deleting the addition of a subchapter.

DATES: Effective February 17, 2009.

FOR FURTHER INFORMATION CONTACT: Andra Grossman, Counsel, telephone (202) 343–1313 (not a toll-free number); Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339.

SUPPLEMENTARY INFORMATION: The FHFA is correcting the final Flood Insurance Regulation that was published in the **Federal Register** on January 15, 2009 (74 FR 2347). The final Flood Insurance Regulation (effective on February 17, 2009) amends Chapter XII of Title 12, of the Code of Federal Regulations and when effective would establish a new ''Subchapter C—Enterprises''. On January 30, 2009, before the effective date of the final Flood Insurance Regulation, FHFA issued another regulation which established Subchapter C (74 FR 5609). This correction to the final Flood Insurance Regulation deletes the addition of Subchapter C because it has already been added.

In FR Doc. E9–809, appearing on page 2350 in the **Federal Register** of Thursday, January 15, 2009, the following correction is made:

CHAPTER XII—FEDERAL HOUSING FINANCE AGENCY [Corrected]

■ 1. On page 2350, in the first column, in **CHAPTER XII—FEDERAL HOUSING FINANCE AGENCY**, in amendment 1, the instruction ''Add Subchapter C, consisting of part 1250 to read as follows:'' is corrected to read ''Add part 1250 to read as follows:''.

Dated: February 10, 2009.

James B. Lockhart III,

Director, Federal Housing Finance Agency.

[FR Doc. E9–3243 Filed 2–13–09; 8:45 am]

BILLING CODE 8070–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–29110; Directorate Identifier 2007–NE–35–AD; Amendment 39–15808; AD 2009–04–02]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney PW4090 and PW4090–3 Turbofan Engines

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Pratt & Whitney (PW) PW4090 and PW4090–3 turbofan engines with front turbine hub, part number (P/N) 53L601, installed. This AD reduces the published life limit of those front turbine hubs, from 12,000 cycles-since-new (CSN) to 9,370 CSN. This AD also removes from service those front turbine hubs using a drawdown schedule. This AD results from PW updating the low-cycle-fatigue (LCF) life analysis for front turbine hubs, P/N 53L601. We are issuing this AD to prevent an uncontained failure of the front turbine hub, resulting in an in-flight engine shutdown and possible damage to the airplane.

DATES: This AD becomes effective March 24, 2009.

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

FOR FURTHER INFORMATION CONTACT: Mark Riley, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803;

e-mail: mark.riley@faa.gov; telephone (781) 238–7758; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with a proposed AD. The proposed AD applies to PW4090 and PW4090–3 turbofan engines with front turbine hub, P/N 53L601, installed. We published the proposed AD in the **Federal Register** on October 10, 2007 (72 FR 57502). That action proposed to reduce the published life limit of those front turbine hubs, from 12,000 CSN to 9,370 CSN. That action also proposed to remove from service those front turbine hubs using a drawdown schedule.

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.

Front Turbine Support P/N 53L601 Not Procurable

United Airlines and the Air Transport Association state that the front turbine hub, P/N 53L601, has a P/N that is only an internal Pratt & Whitney P/N, and the part is not procurable. The procurable part is the next higher assembly, P/N 53L121. They suggest that both the detail and the assembly part numbers be listed in the applicability section to cover both identification methods.

We do not agree. The PW4000 engine manual does not specify a life limit for the front turbine hub assembly, P/N 53L121. However, in order to provide additional clarification, we will add a reference to the front turbine hub assembly, P/N 53L121, similar to what is shown in the PW4000 engine manual.

Request To Clarify the Compliance

Japan Air Lines requests that we clarify that ''last-high-pressure-turbine overhaul'' in paragraph (f)(2)(ii) of the proposed AD, would also include the last-fluorescent-penetrant inspection of the front turbine hub, P/N 53L601, which would be a more accurate reference point for them to count compliance cycles. The commenter believes this is what we intended to state.

We agree. We changed paragraph (f)(2)(ii) to state that operators are to remove the front turbine hub from service at the next engine shop visit (ESV), or before the hub accumulates an additional 6,000 cycles-since-last-fluorescent-penetrant inspection of the front turbine hub, whichever occurs first, but not to exceed 12,000 CSN.

Request To Remove 3,370 CSN References From Paragraphs (f)(1) and (f)(2)

One commenter, Pratt & Whitney, requests that we remove the references to front turbine hubs with fewer than 3,370 CSN, and hubs with 3,370 CSN or more, from compliance paragraphs (f)(1) and (f)(2), as they are not needed. The commenter states that there is no need to drive removal of parts before they have reached the new published life limit of 9,370 CSN.

We partially agree. We agree there is no need to remove front turbine hubs from service before they reached the new published life limit of 9,370 CSN. However, the purpose of the 3,370 CSN threshold is to identify those parts that can be removed per the specified drawdown schedule. We did not change the AD.

Request To Revise Definition of Engine Shop Visit

Pratt & Whitney, the ATA, and United Airlines request that we revise the definition of ''engine shop visit.'' Pratt & Whitney recommends compliance during shop visit at front turbine hub exposure, and states that their analysis supports this. The ATA and United Airlines recommend compliance during shop visit when either the ''E'' or ''N'' flange of the engine is separated. They state that compliance at all shop visits will cause unnecessary engine teardowns for ''quick change'' engines (fan case module refurbishments) and will result in a significant cost impact.

We partially agree. We reviewed Pratt & Whitney's risk analysis and agree that we can manage the risk within acceptable levels if we change the definition of shop visit to ''The induction of an engine into the shop for maintenance involving the separation of any major mating engine flange aft of the ''B'' flange, except that the separation of engine flanges solely for the purposes of transportation without subsequent engine maintenance does not constitute an engine shop visit''. We changed the shop visit definition in paragraph (h) of the AD.

Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD 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 94 engines installed on airplanes of U.S. registry. We also estimate that it will take about 101 work-hours per engine to perform the actions, and that the average labor rate is $80 per work-hour. The prorated cost due to a life reduction from 12,000 CSN to 9,370 CSN for the front turbine hub is about $66,460 per engine. Based on these figures, we estimate the cost of the AD on U.S. operators to be $6,247,240.

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 adding the following new airworthiness directive:

2009–04–02 Pratt & Whitney: Amendment 39–15808. Docket No. FAA–2007–29110; Directorate Identifier 2007–NE–35–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 24, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Pratt & Whitney (PW) PW4090 and PW4090–3 turbofan engines with front turbine hub part number (P/N) 53L601, (part of assembly P/N 53L121), installed. These engines are installed on, but not limited to, Boeing 777–200 series and 777–300 series airplanes.

Unsafe Condition

(d) This AD results from PW updating the low-cycle-fatigue (LCF) life analysis for front turbine hub, P/N 53L601. We are issuing this AD to prevent an uncontained failure of the front turbine hub, resulting in an in-flight engine shutdown and possible damage to the airplane.

Compliance

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

(f) Remove front turbine hub, P/N 53L601 (part of assembly P/N 53L121), from service and install a serviceable front turbine hub, as follows:

(1) For front turbine hubs that have accumulated fewer than 3,370 cycles-since-new (CSN) on the effective date of this AD, remove from service before the hub accumulates 9,370 CSN.

(2) For front turbine hubs that have accumulated 3,370 or more CSN, but fewer than 9,370 CSN on the effective date of this AD, do the following:

(i) For engines that have an engine shop visit (ESV) after the effective date of this AD before the front turbine hub accumulates 9,370 CSN, remove the front turbine hub from service before the front turbine hub accumulates 9,370 CSN.

(ii) For engines that do not have an ESV after the effective date of this AD before the front turbine hub accumulates 9,370 CSN, remove the front turbine hub from service at the next ESV, or before the hub accumulates an additional 6,000 cycles-since-last-fluorescent-penetrant inspection of the front turbine hub, whichever occurs first, but not to exceed 12,000 CSN.

(3) For front turbine hubs that have accumulated 9,370 or more CSN on the effective date of this AD, remove the front turbine hub from service at the next ESV, or before the hub accumulates 12,000 CSN, whichever occurs first.

(g) This AD establishes a new reduced published life limit for the PW4090 turbine front hub, P/N 53L601, of 9,370 CSN. The following conditions also apply:

(1) Except as provided in paragraphs (f)(2)(ii) and (f)(3) of this AD, no alternative retirement lives may be approved for the PW4090 front turbine hub, P/N 53L601.

(2) After the effective date of this AD, do not install or reinstall any PW4090 front turbine hub, P/N 53L601, on any engine if the hub has accumulated 9,370 CSN or more than 9,370 CSN. Any PW4090 front turbine hub, P/N 53L601, that is installed or re-installed in any engine after the effective date of this AD must be removed from service before the hub accumulates 9,370 CSN.

Definition

(h) For the purposes of this AD, an ''engine shop visit'' is the induction of an engine into the shop for maintenance involving the separation of any major mating engine flange aft of the ''B'' flange, except that the separation of engine flanges solely for the purposes of transportation without subsequent engine maintenance does not constitute an engine shop visit.

Alternative Methods of Compliance

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

Related Information

(j) Information on an approved front turbine hub rework procedure for increased life is available from the manufacturer. See Pratt & Whitney Service Bulletin PW4G–112–72–290, dated July 2, 2007. The reworked front turbine hub, P/N 53L601–001, (part of assembly 53L121–001) is not affected by this AD. Contact Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–7700; fax (860) 565–1605, for the service information identified in this AD.

(k) Contact Mark Riley, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; *e-mail: mark.riley@faa.gov*; telephone (781) 238–7758; fax (781) 238–7199, for more information about this AD.

Issued in Burlington, Massachusetts, on February 2, 2009.

Peter A. White,

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

[FR Doc. E9–3041 Filed 2–13–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–1068; Directorate Identifier 2008–NE–33–AD; Amendment 39–15807; AD 2009–04–01]

RIN 2120–AA64

Airworthiness Directives; Wytwornia Sprzetu Komunikacyjnego ''PZL-Rzeszow'' S.A. PZL–10W Turboshaft Engines

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) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

The review of manufacturing process and service experience has shown that the ALRP–5 fuel metering pump units released to service between May 2006 and April 2007 can be vulnerable for seizing. This vulnerability is demonstrated by occurrence of aluminum and bronze chips at the filter. This condition, if not corrected might lead to seizing of the pump and engine RPM decrease.

This AD requires actions that are intended to address the unsafe condition described in the MCAI, which could result in low-time pump seizure, loss of engine fuel flow and engine power, possibly leading to an autorotation landing.

DATES: This AD becomes effective March 24, 2009.

We must receive comments on this AD by April 20, 2009.

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

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow

the instructions for sending your comments electronically.

- *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Richard Woldan, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; *e-mail: richard.woldan@faa.gov;* telephone (781) 238–7136; fax (781) 238–7199.

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 2007–0153–E, dated May 25, 2007 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> The review of manufacturing process and service experience has shown that the ALRP–5 fuel metering pump units released to service between May 2006 and April 2007 can be vulnerable for seizing. This vulnerability is demonstrated by occurrence of aluminum and bronze chips at the filter. This condition, if not corrected might lead to seizing of the pump and engine RPM decrease.

This AD requires initial and repetitive visual inspections of the fine filter in certain serial number ALRP–5 fuel metering pumps for aluminum and bronze chips at the filter, and removal of the pump from service if the filter fails the inspection. You may obtain further information by examining the MCAI in the AD docket.

Differences Between the AD and the MCAI or Service Information

We have reviewed the MCAI and, in general, agree with its substance. But we 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.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of Poland, and is approved for operation in the United States. Pursuant to our bilateral agreement with Poland, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all the information provided by Poland and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design. This AD requires initial and repetitive visual inspections of the fine filter in certain serial number ALRP–5 fuel metering pumps for aluminum and bronze chips at the filter, and removal of the pump from service if the filter fails the inspection.

FAA's Determination of the Effective Date

Since no domestic operators use this product, notice and opportunity for public comment before issuing this AD are unnecessary. Therefore, we are adopting this regulation immediately.

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–2008–1068; Directorate Identifier 2008–NE–33–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 with FAA personnel concerning this AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

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, 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:

2009–04–01 Wytwornia Sprzetu Komunikacyjnego ''PZL-Rzeszow'' S.A.: Amendment 39–15807; Docket No. FAA–2008–1068; Directorate Identifier 2008–NE–33–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 24, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Wytwornia Sprzetu Komunikacyjnego ''PZL-Rzeszow'' S.A. (WSK) PZL–10W turboshaft engines, with the following serial numbers of ALRP–5 fuel metering pumps installed. These engines are installed on, but not limited to, PZL Swidnik W3/W3A helicopters.

AFFECTED ALRP–5 FUEL METERING PUMP SERIAL NUMBERS

PB 99040002	PB 94030003	PA 07927B
PB 98050002	PB 93120004	PB 96080005
PA 058701B	PA 05913B	PB 07010001
PB 99020003	PB 95020005	PB 07010002
PB 97010002	PB 97030004	PA 04891B
PA 02914B	PB 97060001	PA 11892B
PA 11881B	PB 99040001	PA 10903B
PB 94020003	PB 95050003	PA 02915B
PB 93050006	PB 94110002	PA 02903B
PA 06918B	PB 93080005	PA 06891B
PA 07912B	PB 93120002	PB 97050002
PB 02935	PB 97070003	PA 07882B

Reason

(d) European Aviation Safety Agency (EASA) AD No. 2007–0153–E, dated May 25, 2007, states:

The review of manufacturing process and service experience has shown that the ALRP–5 fuel metering pump units released to service between May 2006 and April 2007 can be vulnerable for seizing. This vulnerability is demonstrated by occurrence of aluminum and bronze chips at the filter. This condition, if not corrected might lead to seizing of the pump and engine RPM decrease.

We are issuing this AD to prevent low-time pump seizure, loss of engine fuel flow and engine power, possibly leading to an autorotation landing.

Actions and Compliance

(e) Unless already done, do the following visual inspections using paragraph (f) of this AD.

Initial Inspection

(1) Visually inspect the fuel metering pump fine filter before further flight.

Fuel Metering Pumps With More Than 30 Hours Time-In-Service

(2) For fuel metering pumps with more than 30 hours time-in-service (TIS) on the effective date of this AD, re-inspect the filter within 5 hours TIS after reaching 50 hours TIS since the initial inspection specified in paragraph (e)(1) of this AD.

Fuel Metering Pumps With 30 or Fewer Hours Time-In-Service

(3) For fuel metering pumps with 30 or fewer hours TIS on the effective date of this AD, re-inspect the filter after each flight day, not to exceed 4 hours TIS between each inspection, until reaching 30 hours TIS.

(4) Re-inspect the filter within 5 hours TIS after reaching 50 hours TIS since the last inspection specified in paragraph (e)(3) of this AD.

If Filter Fails Inspection

(5) If the filter fails any inspection, remove the fuel metering pump from service and install a serviceable fuel metering pump.

(f) Visually inspect the pump fine filter as follows:

(1) Remove the fine filter from the ALRP–5 pump and visually inspect it. Information on removing the fine filter can be found in PZL–10W Maintenance Manual, Document No. 19.0.400.

(2) If there is no evidence of any metal chips on the filter, wash and reinstall the filter, and vent the fuel system.

(3) If metal chips are found on the filter, evaluate the chips as follows:

(i) Aluminum or bronze chips are not allowed.

(ii) Metallic particles seen as reflection of light are allowable in maximum quantity of 10 per filter segment (row) but not more than 30 for the entire filter.

Definition

(g) For the purpose of this AD, a serviceable fuel metering pump is one that does not have a serial number listed in this AD, is one that has successfully completed the inspections required by this AD, or is one listed in this AD that has been repaired since being listed in WSK Obligatory Bulletin No. E–19W123/DOA/2007, dated May 2007.

Alternative Methods of Compliance (AMOCs)

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

Related Information

(i) Refer to MCAI EASA Airworthiness Directive 2007–0153–E, dated May 25, 2007, for related information.

(j) WSK Obligatory Bulletin No. E–19W123/DOA/2007, dated May 2007, and PZL–10W Maintenance Manual, Document No. 19.0.400, pertain to the subject of this AD. Contact WSK ''PZL-Rzeszow'' S.A., ul. Hetmanska 120, 35–078 Rzeszow, Poland, telephone: 011 48 17 854–62–00 or 854–61–00, for a copy of this service information.

(k) Contact Richard Woldan, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *richard.woldan@faa.gov;* telephone (781) 238–7136; fax (781) 238–7199, for more information about this AD.

Issued in Burlington, Massachusetts, on February 2, 2009.

Peter A. White,

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

[FR Doc. E9–3044 Filed 2–13–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0230; Directorate Identifier 2007–NE–24–AD; Amendment 39–15809; AD 2009–04–03]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Corporation AE 3007A1E and AE 1107C Turbofan/Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Rolls-Royce Corporation (RRC) AE 3007A1E and AE 1107C turbofan/turboshaft engines. This AD requires removal from service of certain 2nd stage, 3rd stage, and 4th stage compressor wheels, compressor cone shaft assemblies, and 1st to 2nd-stage turbine spacers at new, reduced, published life limits. This AD results from RRC applying an updated lifing methodology to the affected parts. We are issuing this AD to prevent low-cycle-fatigue failure of the parts listed in Table 1 of this AD, which could result in an uncontained engine failure and damage to the aircraft.

DATES: This AD becomes effective March 24, 2009.

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

FOR FURTHER INFORMATION CONTACT: Michael Downs, Aerospace Engineer, Chicago Aircraft Certification Office, Small Airplane Directorate, FAA, 2300 E. Devon Ave., Des Plaines, IL 60018; telephone (847) 294–7870; fax (847) 294–7834.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with a proposed AD. The proposed AD applies to RRC AE 3007A1E and AE 1107C turbofan/turboshaft engines. We published the proposed AD in the **Federal Register** on June 11, 2008 (73 FR 33025). That action proposed to require removal from service of certain 2nd stage, 3rd stage, and 4th stage compressor wheels, compressor cone shaft assemblies, and 1st to 2nd-stage turbine spacers, at new, reduced, published life limits.

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 received no comments on the proposal or on the determination of the cost to the public.

Conclusion

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

Costs of Compliance

We estimate that this AD will affect 220 AE 3007A1E turbofan engines installed on aircraft of U.S. registry. The action does not impose any additional labor costs since it will be performed at engine overhaul. Required parts will cost about $100,000 per engine. Based on these figures, we estimate the total cost of the AD to U.S. operators to be $22,000,000.

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 adding the following new airworthiness directive:

2009–04–03 Rolls-Royce Corporation (Formerly Allison Engine Company, Inc.): Amendment 39–15809. Docket No. FAA–2008–0230; Directorate Identifier 2007–NE–24–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 24, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Rolls-Royce Corporation (RRC) AE 3007A1E and AE 1107C turbofan/turboshaft engines, with the following parts in Table 1 installed, as applicable:

TABLE 1—AFFECTED PARTS AND REDUCED LIFE LIMITS

Engine	Part name	Part No.	New reduced published life limit, in flight cycles
AE 3007A1E	2nd Stage Compressor Wheel	23050752	15,200
	3rd Stage Compressor Wheel	23065303	13,300
AE 1107C	2nd Stage Compressor Wheel	23050752	11,400
	2nd Stage Compressor Wheel	23084157	11,400
	3rd Stage Compressor Wheel	23065303	6,200
	3rd Stage Compressor Wheel (serial numbers L72422, L72475, L72505, L130704, L130829, L130830, L138218, L138226, L138621, L206084, L206163).	23065303	5,000
	3rd Stage Compressor Wheel	23084158	6,200
	4th Stage Compressor Wheel	23050754	14,900
	4th Stage Compressor Wheel	23071259	14,900
	4th Stage Compressor Wheel	23084159	14,900
	Compressor Cone Shaft Assembly	23050728	2,900
	Compressor Cone Shaft Assembly	23070729	2,900
	1st to 2nd-Stage Turbine Spacer	23065300	9,500

AE 3007A1E turbofan engines are installed on, but not limited to, EMBRAER EMB–135BJ and EMB–145XR airplanes. AE 1107C turboshaft engines are U.S. type-certificated and are installed on, but not limited to, certain U.S. military aircraft.

Unsafe Condition

(d) This AD results from RRC applying an updated lifing methodology to the affected parts. We are issuing this AD to prevent low-cycle-fatigue failure of the parts listed in Table 1 of this AD, which could result in an uncontained engine failure and damage to the aircraft.

Compliance

(e) You are responsible for having the actions required by this AD performed within 5 days after the effective date of this AD, unless the actions have already been done.

(f) Remove from service the parts listed in Table 1 of this AD, at the new, reduced, published life limits specified in Table 1 of this AD.

Alternative Methods of Compliance

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

Related Information

(h) RRC Alert Service Bulletin (ASB) No. AE 3007A–A–72–346, dated May 1, 2007; Service Bulletin No. AE 1107C–A–72–086, Revision 2, dated January 28, 2008; and ASB No. AE 1107C–A–72–089, dated January 28, 2008, also pertain to the subject of this AD. Contact Rolls-Royce Corporation, P.O. Box 420, Indianapolis, IN 46206–0420; telephone (317) 230–6400; fax (317) 230–4243, for a copy of this service information.

(i) Contact Michael Downs, Aerospace Engineer, Chicago Aircraft Certification Office, Small Airplane Directorate, FAA, 2300 E. Devon Ave., Des Plaines, IL 60018; telephone (847) 294–7870; fax (847) 294–7834, for more information about this AD.

Issued in Burlington, Massachusetts, on February 5, 2009.

Peter A. White,

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

[FR Doc. E9–3027 Filed 2–13–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25730; Directorate Identifier 2006–NE–31–AD; Amendment 39–15798; AD 2009–02–08]

RIN 2120–AA64

Airworthiness Directives; Turbomeca Turmo IV A and IV C Series Turboshaft Engines

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD) for Turbomeca Turmo IV A and IV C series turboshaft engines. That AD is applicable to engines with oil-tank-to-oil-cooler flexible lubrication pipes, part number (P/N) 0 249 92 813 0 or P/N 0 249 92 916 0, installed. That AD currently requires identifying, inspecting, and replacing affected flexible lubrication pipes manufactured after April 1, 2003. That AD also requires initial and repetitive borescope inspections of affected pipes, visual inspections for oil leakage, and visual inspections of the oil filter. That AD also requires that if both engines on the same helicopter each have an affected pipe, replacing one of the affected pipes before further flight. This AD does not contain that requirement. This AD requires the same inspections as the superseded AD and adds inspection of oil-pump-to-intermediate-bearing flexible lubricating pipe, P/N 0 249 92 808 0. This AD also requires all remaining affected flexible lubrication pipes, P/N 0 249 92 813 0, P/N 0 249 92 916 0, and P/N 0 249 92 808 to be replaced as terminating action to the repetitive inspections for those affected pipes. This AD results from additional shutdowns caused by pipes, P/N 0 249 92 808 0, and the introduction of Turbomeca Modifications TU 231 and TU 233 that replace pipes, P/N 0 249 92 813 0, P/N 0 249 92 916 0, and P/N 0 249 92 808. We are issuing this AD to prevent helicopter engine in-flight shutdown of one or both engines resulting in an emergency auto-rotation landing or accident.

DATES: Effective March 4, 2009. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of March 4, 2009.

We must receive any comments on this AD by April 20, 2009.

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

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

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

SUPPLEMENTARY INFORMATION: On October 12, 2006, we issued AD 2006–21–11, Amendment 39–14796 (71 FR 61642, October 19, 2006). That AD requires identifying and inspecting oil-tank-to-oil-cooler flexible lubrication pipes, P/N 0 249 92 813 0 or P/N 0 249 92 916 0, manufactured after April 1, 2003. If both engines on the same helicopter each have an affected pipe, then that AD requires replacing one of the affected pipes before further flight. That AD also requires initial and repetitive borescope inspections of affected pipes, visual inspections for oil leakage, and visual inspections of the oil filter, on engines that are not required to have an affected pipe replaced before further flight. That AD resulted from seven reports of oil leakage due to the deterioration of certain flexible lubrication pipes manufactured after April 1, 2003. That condition, if not corrected, could result in helicopter engine in-flight shutdown of one or both engines resulting in an emergency auto-rotation landing or accident.

Actions Since AD 2006–21–11 Was Issued

Since AD 2006–21–11 was issued, the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, notified us that Turbomeca reported two additional occurrences of deterioration in a third P/N flexible lubrication pipe, P/N 0 249 92 808 0. EASA also notified us that Turbomeca issued mandatory service bulletins to add pipe P/N 0 249 92 808 0 to the list of affected pipes, to replace affected pipes, P/N 0 249 92 813 0 and P/N 0 249 92 916 0 with a new P/N pipe, and to replace affected pipes, P/N 0 249 92 808 0 with a new P/N pipe. This AD requires the same inspections as AD 2006–21–11 but requires replacing all remaining affected lubrication pipes, P/N 0 249 92 813 0 and P/N 0 249 92 916 0, with either a new P/N pipe or a pipe manufactured before April 1, 2003, as terminating action to the repetitive pipe inspections in this AD.

Relevant Service Information

We have reviewed and approved the technical contents of Turbomeca Alert Mandatory Service Bulletin (MSB) No. A249 72 0802, Update No. 2, dated February 23, 2007. That Alert MSB describes procedures for identifying affected flexible lubrication pipes by their curing batch number, and describes procedures for performing repetitive borescope inspections of all other affected pipes and visual inspections of the oil filter. We have also reviewed and approved the technical contents of Turbomeca MSB No. 249 72 0231, Update No. 1, dated October 11, 2007. That MSB describes procedures for replacing remaining affected flexible lubrication pipes, P/N 0 249 92 813 0 and P/N 0 249 92 916 0, with pipes introduced by Modification TU 231. We have also reviewed and approved the technical contents of Turbomeca MSB No. 249 72 0233, dated September 1, 2008. That MSB describes procedures for replacing remaining affected flexible lubrication pipes, P/N 0 249 92 808 0, with pipes introduced by Modification TU 233. EASA classified these service bulletins as mandatory and issued AD 2008–0194 to ensure the airworthiness of these Turbomeca Turmo IV A and IV C series turboshaft engines in Europe.

Bilateral Airworthiness Agreement

These engine models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Under this bilateral airworthiness agreement, France has kept the FAA informed of the situation described above. We have examined the findings of EASA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other Turbomeca Turmo IV A and IV C series turboshaft engines of the same type design. We are issuing this AD to prevent engine in-flight shutdown of one or both helicopter engines resulting in an emergency auto-rotation landing or accident. This AD requires:

- Identifying and inspecting certain flexible lubrication pipes manufactured after April 1, 2003; and
- Initial and repetitive borescope inspections of affected pipes, visual inspections for oil leakage, and visual inspections of the oil filter, on engines that are not required to have an affected pipe replaced before further flight; and
- Replacing all remaining affected lubrication pipes, P/N 0 249 92 813 0 and P/N 0 249 92 916 0, and all remaining affected lubrication pipes, P/N 0 249 92 808 0, with new P/N pipes or pipes manufactured before April 1, 2003, within 45 days or 50 operating hours after the effective date of the AD, whichever occurs first, as terminating action to the repetitive pipe inspections in this AD.

FAA's Determination of the Effective Date

Since an unsafe condition exists that requires the immediate adoption of this AD, we have found that notice and opportunity for public comment before issuing this AD are impracticable, and that good cause 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 was not preceded by notice and an opportunity for public comment; however, we invite you to send us any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2006–25730; Directorate Identifier 2006–NE–31–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify it.

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

Examining the AD Docket

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

address provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–14796 (71 FR 61642, October 19, 2006), and by adding a new airworthiness directive, Amendment 39–15798, to read as follows:

2009–02–08 Turbomeca: Amendment 39–15798. Docket No. FAA–2006–25730; Directorate Identifier 2006–NE–31–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 4, 2009.

Affected ADs

(b) This AD supersedes AD 2006–21–11, Amendment 39–14796.

Applicability

(c) This AD applies to Turbomeca Turmo IV A and IV C series turboshaft engines with oil-tank-to-oil-cooler flexible lubrication pipes, part number (P/N) 0 249 92 813 0, or P/N 0 249 92 916 0, or oil-pump-to-intermediate-bearing flexible lubrication pipes, P/N 0 249 92 808 0 installed. These engines are installed on, but not limited to, Eurocopter SA 330F, G, or J PUMA helicopters.

Unsafe Condition

(d) This AD results from:

(1) Additional shutdowns caused by flexible oil-pump-to-intermediate-bearing-lubrication pipes, P/N 0 249 92 808 0; and

(2) The introduction of a new P/N pipe through Turbomeca Modification TU 231, as a replacement for affected oil-tank-to-oil-cooler flexible lubrication pipes, P/N 0 249 92 813 0 and P/N 0 249 92 916 0; and

(3) The introduction of a new P/N pipe through Turbomeca Modification TU 233, as a replacement for affected oil-pump-to-intermediate-bearing flexible lubrication pipes, P/N 0 249 92 808 0.

(4) We are issuing this AD to prevent helicopter engine in-flight shutdown of one or both engines resulting in an emergency auto-rotation landing or accident.

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.

Initial Actions

(f) Before further flight:

(1) Identify the curing batch of the flexible lubricating pipes listed in paragraph (c) of this AD.

(2) For oil-tank-to-oil-cooler flexible lubrication pipes, P/N 0 249 92 813 0 and P/N 0 249 92 916 0, and for oil-pump-to-intermediate-bearing flexible lubrication pipes, P/N 0 249 92 808 0, with a curing batch of ''2T03'' (meaning 2nd quarter of 2003), or subsequent batch:

(i) Borescope-inspect the pipe for deterioration, visually inspect for oil leakage, and visually inspect the oil filter for black particle deterioration from the pipe.

(ii) Replace the pipe with a serviceable pipe, if deterioration or leakage is found.

Repetitive Actions

(g) Within an additional 25 operating hours, on engines still having an affected flexible lubrication pipe, P/N 0 249 92 813 0, P/N 0 249 92 916 0, or P/N 0 249 92 808 0 installed:

(1) Borescope-inspect the pipe for deterioration, visually inspect the pipe for oil leakage, and visually inspect the oil filter for black particle deterioration from the pipe.

(2) Replace pipes with serviceable pipes, if deterioration or leakage is found.

Terminating Action for Affected Flexible Lubricating Pipes

(h) Within 45 days or 50 operating hours after the effective date of this AD, whichever occurs first, as terminating action to the repetitive inspections required by this AD:

(1) Replace oil-tank-to-oil-cooler flexible lubrication pipes, P/N 0 249 92 813 0 and P/N 0 249 92 916 0 that have a curing batch of ''2T03'' or later, with a serviceable pipe.

(2) Replace oil-pump-to-intermediate-bearing flexible lubrication pipes, P/N 0 249 92 808 0 that have a curing batch of ''2T03'' or later, with a serviceable pipe.

Definitions

(i) For the purposes of this AD, a serviceable oil-tank-to-oil-cooler flexible lubrication pipe is one with a curing batch before April 1, 2003 (before ''2T03''), or one incorporating Modification TU 231. Information about Modification TU 231 can be found in Turbomeca Mandatory Service Bulletin (MSB) No. 249 72 0231.

(j) For the purposes of this AD, a serviceable oil-pump-to-intermediate-bearing flexible lubrication pipe is one with a curing batch before ''2T03'' or one incorporating Modification TU 233. Information about Modification TU 233 can be found in Turbomeca MSB No. 249 72 0233.

Alternative Methods of Compliance

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

Related Information

(l) Information on performing the initial and repetitive actions in this AD can be found in Turbomeca Alert Mandatory Service Bulletin (MSB) No. A249 72 0802.

(m) Contact Turbomeca S.A., 40220 Tarnos, France; *e-mail: noria-dallas@turbomeca.com*; telephone 33 05 59 74 40 00, fax 33 05 59 74 45 15, or go to: *http://www.turbomeca-support.com*, for a copy of the service information identified in this AD.

(n) European Aviation Safety Agency AD 2008–0194, dated October 31, 2008, also addresses the subject of this AD.

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

Issued in Burlington, Massachusetts, on January 14, 2009.

Peter A. White,

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

[FR Doc. E9–3042 Filed 2–13–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 30

[Docket No. FR–5081–C–03]

RIN 2501–AD23

Civil Money Penalties: Certain Prohibited Conduct; Technical Correction

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule, technical correction.

SUMMARY: On January 15, 2009, HUD published a final rule to revise HUD's regulations that govern the imposition of civil money penalties. The final rule contained, however, a typographical error in the amendatory language for a revision to 24 CFR 30.90(b). HUD published a second final rule on January 26, 2009, that further amended the section. Because of the error contained in the January 15, 2009 final rule, the amendatory language contained in the January 26, 2009, final rule was also in error. This document corrects these errors.

DATES: *Effective Dates:* The correction to the amendment of 24 CFR 30.90 published on January 15, 2009 (74 FR 2750), is effective February 17, 2009. The correction to the amendment of § 30.90 published on January 26, 2009 (74 FR 4634), is effective February 25, 2009.

FOR FURTHER INFORMATION CONTACT: Dane Narode, Associate General Counsel for Program Enforcement, Department of Housing and Urban Development, 1250 Maryland Avenue, SW., Suite 200, Washington, DC 20024–0500; telephone number 202–708–2350 (this is not a toll-free number), or e-mail address *Dane.M.Narode@hud.gov.* Individuals with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: On January 15, 2009 (74 FR 2750), HUD published a final rule that revised HUD's regulations that govern the imposition of civil money penalties, located at part 30 of Title 24 of the Code of Federal Regulations. The final rule followed a proposed rule published on October 17, 2008 (73 FR 61754), that provided a 60 day public comment period. HUD received no comments in response to the proposed rule and, at the final rule stage, adopted the proposed rule without change.

Among other changes, the January 15, 2009, final rule revised procedures at § 30.90 that detail how a respondent against whom HUD has filed a complaint seeking civil money penalties should submit his or her answer. In the January 15, 2009, final rule, HUD attempted to establish a new § 30.90(b) that instructed the respondent to serve upon HUD and file with the Office of Hearing and Appeals a written answer within 30 days of receipt of the complaint, unless such time is extended for good cause. The amendatory language for § 30.90 of the January 15, 2009, final rule, however, requested that the **Federal Register** redesignate existing paragraph (b) as (c) and ''revise'' new paragraph (b). Rather than requesting that new paragraph (b) be revised, the amendatory language should have instructed that new paragraph (b) be added.

On January 26, 2009, HUD published a second final rule to amend several sections of HUD's regulations to reflect changes in the office address and staff titles of HUD's Office of Hearings and Appeals. Among the changes included in the January 26, 2009, final rule was one intended to amend § 30.90 of HUD's civil money penalties rule to reflect that the title of ''Chief Docket Clerk'' has been changed to ''Docket Clerk.'' The amendatory language for § 30.90 in the January 26, 2009, final rule, however, contained a typographical error and requested that § 30.90(b) be revised. The amendatory language should have requested that § 30.90(c) be revised to conform to HUD's January 15, 2009, final rule. Today's **Federal Register** document corrects these errors.

■ Accordingly, FR Doc. E9–851, Civil Money Penalties: Certain Prohibited Conduct (FR–5081–F–02), published in the **Federal Register** on January 15, 2009 (74 FR 2750) is corrected as follows:

§ 30.90 [Corrected]

■ On page 2752, in the second column, revise amendatory instruction number 11 to read as follows:

''11. In § 30.90, revise paragraph (a), redesignate paragraph (b) as (c), and add new paragraph (b) to read as follows:''

■ In addition, FR Doc. E9–1249, HUD Office of Hearings and Appeals; Conforming Changes to Reflect Office Address and Staff Title Changes, and Notification of Retention of Chief Administrative Law Judge (FR–5265–F–01), published in the **Federal Register** on January 26, 2009 (74 FR 4634) is corrected as follows:

§ 30.90 [Corrected]

■ On page 4635, in the third column, remove the paragraph designation ''(b)'' from the amendment to § 30.90, and add in its place ''(c)''; and revise the amendatory instruction number 7 to read as follows:

''7. Revise the first sentence of § 30.90(c) to read as follows:''

Dated: February 10, 2009.

Aaron Santa Anna,

Assistant General Counsel for Regulations.

[FR Doc. E9–3245 Filed 2–13–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2008–1225]

Drawbridge Operation Regulations; Gulf Intracoastal Waterway, St. Petersburg Beach and South Pasadena, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations; request for comments.

SUMMARY: The Commander, Seventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Pinellas Bayway Structure ''C'' and Corey Causeway (SR 693) Bridges across the Gulf Intracoastal Waterway, miles 114 and 117.7, at St. Petersburg Beach, and South Pasadena, FL. This deviation will test a change to the drawbridge operation schedules to determine whether a permanent change to the schedule is needed. This deviation will allow both drawbridges to operate on a twice an hour schedule during the day. This deviation may be terminated/cancelled at any time via a Broadcast Notice to Mariners.

DATES: This deviation is effective from 7 a.m. on January 26 through 7 p.m. on April 25, 2009.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2008–1225 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Online: http://www.regulations.gov.*

(2) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(3) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251.

FOR FURTHER INFORMATION CONTACT: If you have questions on this test deviation, call Michael Lieberum, Bridge Branch at 305–415–6744. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this action by submitting comments and related materials. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Submitting Comments

If you submit a comment, please include the docket number for this action (USCG–2008–1225), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed action in view of them.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* at any time, click on ''Search for Dockets,'' and enter the docket number for this action (USCG–2008–1225) in the Docket ID box, and click enter. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act

Anyone can 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 a Privacy Act, system of records notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

Background and Purpose

The Pinellas Bayway Structure ''C'' bridge has a vertical clearance of 25 feet in the closed position and the Corey Causeway bridge has a vertical clearance of 23 feet in the closed position.

The current operating regulations per 33 CFR 117.287(e), the draw of the Pinellas Bayway Structure ''C'' bridge, mile 114, at St. Petersburg Beach shall open on signal; except that from 7 a.m. to 7 p.m., the draw need open only on the hour, twenty minutes past the hour, and forty minutes past the hour. Per 33 CFR 117.287(f), the draw of the Corey Causeway (SR 693) bridge, mile 117.7 at South Pasadena, shall open on signal; except that, from 8 a.m. to 7 p.m. Monday through Friday, and 10 a.m. to 7 p.m. Saturdays and Sundays and Federal holidays, the draw need to open only on the hour, twenty minutes after the hour, and forty minutes after the hour.

The local mayor has requested that the Coast Guard evaluate a twice an hour schedule. The Florida Department of Transportation, the bridge owner, has a concern related to the length of time during bridge openings on the weekends due to the accumulation of vessels between openings which may directly impact vehicle traffic. For this reason, FDOT will be monitoring the traffic flow through the area during this test and may recommend that the test be terminated at any point that vehicle traffic patterns show a detriment rather than an improvement in traffic flow. This test may have a minor impact on vessel traffic as there will be two openings an hour rather than three during these same time periods.

This deviation will start on 7 a.m. on January 26 and will continue until 7 p.m. on April 25, 2009, unless otherwise terminated/cancelled due to heavier than normal traffic patterns. The Pinellas Bayway Structure ''C'' and Corey Causeway bridges will open on demand except that from 7 a.m. to 7 p.m. daily both bridges will open on the hour and half-hour, seven days a week. Vessels able to pass under the bridges without an opening may do so at any time. Public vessels of the United States and tugs with tows must be passed at any time.

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

Dated: January 15, 2009.

R.S. Branham,

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

[FR Doc. E9–3301 Filed 2–13–09; 8:45 am]

BILLING CODE 4910–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket No. 04–186 and 02–380; FCC 08–260]

Unlicensed Operation in the TV Broadcast Bands

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document the Commission adopted rules to allow unlicensed radio transmitters to operate in the broadcast television spectrum at locations where that spectrum is not being used by licensed services (this unused TV spectrum is often termed ''white spaces''). This action will make a significant amount of spectrum available for new and innovative products and services, including broadband data and other services for businesses and consumers. The actions taken are a conservative first step that

includes many safeguards to prevent harmful interference to incumbent communications services. Moreover, the Commission will closely oversee the development and introduction of these devices to the market and will take whatever actions may be necessary to avoid, and if necessary correct, any interference that may occur.

DATES: Effective March 19, 2009, except for §§ 15.713, 15.714, 15.715 and 15.717, which contain information collection requirements that have not been approved by the Office of Management and Budget. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date of those sections.

Paperwork Reduction Act of 1995 Analysis: This document contains new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collection requirements contained in this R&O as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments should be submitted by April 20, 2009.

ADDRESSES: In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to the Federal Communications Commission via e-mail to *PRA@fcc.gov* and to Nicholas A. Fraser, Office of Management and Budget, via e-mail to *Nicholas_A._Fraser@omb.eop.gov* or via fax at 202–395–5167.

FOR FURTHER INFORMATION CONTACT: Hugh VanTuyl, Office of Engineering and Technology, (202) 418–7506, e-mail *Hugh.VanTuyl@fcc.gov* or Alan Stillwell, Office of Engineering and Technology (202) 418–2925, e-mail *Alan.Stillwell@fcc.gov*. TTY (202) 418–2989.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order and Memorandum Opinion and Order*, ET Docket No. 04–186 and ET Docket No. 02–380, FCC 08–260, adopted November 4, 2008 and released November 14, 2008. The full text of this document is available on the Commission's Internet site at *http://www.fcc.gov*. It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY–A257), 445 12th Street., SW., Washington, DC 20554. The full text of this document also may be purchased from the Commission's duplication contractor, Best Copy and Printing Inc., Portals II, 445 12th St., SW., Room CY–B402, Washington, DC 20554; telephone (202) 488–5300; fax (202) 488–5563; e-mail *FCC@BCPIWEB.COM*.

Summary of the Report and Order and Memorandum Opinion and Order

1. On May 13, 2004, the Commission adopted a *Notice of Proposed Rule Making* (NPRM), 71 FR 66897, November 17, 2006, in this proceeding in which it proposed to allow unlicensed operation in the TV bands at locations where frequencies are not in use by licensed services. To ensure that no harmful interference will occur to TV stations and other authorized users of the spectrum, the Commission proposed to define the conditions under which a TV channel is unused and to require unlicensed devices to incorporate ''smart radio'' features to identify the unused TV channels in the area where they are located. For the purpose of minimizing interference, the Commission proposed to classify unlicensed TVBDs in two general functional categories. The first category would consist of lower power ''personal/portable'' unlicensed devices, such as Wi-Fi-like cards in laptop computers or wireless in-home local area networks (LANs). The second category would consist of higher power ''fixed'' unlicensed devices that would operate from a fixed location and could be used to provide commercial services such as wireless broadband Internet access. It proposed to require that personal/portable devices operate only when they receive a control signal from a source such as a TV station or FM radio station that identifies the vacant TV channels in that particular area. The Commission also requested comments on an approach that would require that fixed devices incorporate a geo-location method such as a Global Positioning System (GPS) receiver or be professionally installed, and that they access a database system to identify vacant channels at their location. The Commission further sought comment on the use of spectrum sensing to identify vacant TV channels, but did not propose any specific technical criteria for spectrum sensing.

2. The comments received in response to the NPRM were divided between the prospective manufacturers and users of unlicensed devices who believe adequate safeguards can be put in place to prevent harmful interference to authorized services, and the existing users of the TV bands who are concerned about potential interference. A number of broadband equipment manufacturers, trade associations and other parties supported allowing unlicensed operation in the TV bands. These parties generally stated that unlicensed devices could operate in the TV bands without causing interference to authorized services. They further stated that allowing such operation in the TV bands could improve access to broadband communications by taking advantage of the favorable propagation characteristics of the TV spectrum and that this would result in more efficient use of this spectrum.

3. Full service and low power TV broadcasters generally opposed allowing unlicensed operation in the TV bands, expressing concern that unlicensed devices operating under the proposed rules would cause interference to TV reception, particularly in weak signal areas. Several parties also expressed concern that unlicensed devices operating in close proximity to TV receivers would cause direct pick-up interference potentially affecting all channels. Manufacturers and users of wireless microphones and other broadcast auxiliary services submitted that unlicensed devices would cause harmful interference to those services. Those parties recommended that the Commission take a number of steps to protect auxiliary services. Land mobile interests expressed concern about allowing unlicensed operation on channels 14–20 in any part of the country because devices could be transported into areas where those channels are used for PLMRS/CMRS operations.

4. On October 12, 2006, the Commission adopted the *First R&O/Further NPRM*, 71 FR 66897, November 17, 2006, in this proceeding. In that action, the Commission determined that the record received in response to the *NPRM* did not contain sufficient information for it to adopt final rules for unlicensed TVBDs. The Commission did, however, make a number of initial decisions regarding TVBDs. It decided to permit fixed unlicensed power devices to operate in the TV bands at times and locations where the spectrum is not already being used by other authorized services. It also decided not to permit operation of unlicensed TVBDs on channel 37, which is used by radio astronomy and wireless medical telemetry services, and on TV channels 52–69, as that spectrum has been reallocated for other services and will no longer be part of the TV bands after the DTV transition. The Commission further decided to prohibit operation of personal/portable TV band devices on TV channels 14–20 to avoid potential conflicts with public safety services on those channels. In addition, the

Commission stated that it will not permit marketing of TV band devices to commence until February 18, 2009, the date on which all primary, full service TV stations will be in operation on their permanent DTV channels.

5. In the *First R&O/Further NPRM*, the Commission also asked questions and set forth additional proposals with regard to the provisions necessary to implement complete and final rules for unlicensed TV band devices. While the Commission continued to focus on devices operating on an unlicensed basis, it also sought comment on whether such devices should instead operate on a licensed or hybrid basis. The Commission recognized the importance of conducting testing to ensure that whatever standards are ultimately adopted will protect incumbent radio services from interference and indicated that it intended to conduct extensive testing to assess the potential interference from low power devices operating in the TV bands. It also requested further comment and information on the means that TVBDs, both fixed and personal/portable, should be required to use to determine the availability of unused spectrum. It specifically requested comment on whether it should allow personal/portable devices to rely on spectrum sensing and, if so, the technical features and parameters of the sensing capability to be required. The Commission observed that IEEE 802.22 is considering different sensing threshold detection levels depending on the nature of the source signal, with levels as low as −116 dBm, and invited comment on this value or alternative values for the detection threshold. It also made specific proposals for additional parameters of spectrum sensing capabilities and other technical requirements. The Commission sought comment on whether TV band devices should be permitted to operate on TV channels 2–4, and whether fixed TV band devices should be permitted to operate on TV channels 14–20. The Commission also sought additional comments on several issues relating to the geo-location/database access and control signal approaches discussed in the *NPRM*.

6. The comments responding to the *First R&O/Further NPRM* are again divided on certain of the major issues in this proceeding. Two groups, one a coalition of hardware and software companies consisting of Dell, Google, HP, Intel, Microsoft and Phillips (the White Space Coalition) and the other a group of public interest/consumer organizations and wireless internet service providers (WISPs), led by the NAF, strongly support low power, unlicensed use of the TV bands. In addition, some other manufacturers and a number of WISPs express support for that approach separately from these groups. Proponents of unlicensed devices believe that the Commission should allow both fixed and personal/portable devices. They also support allowing personal/portable devices to rely solely on spectrum sensing to determine the available channels at their location. The White Space Coalition supports limiting unlicensed operation to channels 21–51 (excluding 37), while the group led by the NAF believes that operation should be permitted on as many channels as possible, including channels 2–4 and channels 14–20 in locations where public safety and land mobile services are not using them.

7. Full service and low power TV broadcasters and cable TV interests generally state that any new services in the TV bands should be licensed to reduce the likelihood of interference to incumbent services. They oppose the introduction of personal/portable devices at this time and believe that any new services should be limited to fixed operation. Broadcasters contend that spectrum sensing alone is inadequate to protect against interference to broadcast operations and that sensing must be combined with geo-location/database access to ensure that low power devices do not operate inside the protected service contours of co-channel or adjacent-channel TV stations. Low power TV and translator operators express concern that low power unlicensed devices would cause interference to viewers who rely on reception outside their stations' protected service contours, while cable interests express concern about possible interference to reception of TV signals by cable headends that are located outside TV stations' protected contours. Both broadcast and cable interests express concern about direct pick-up interference to TV receivers, particularly from personal/portable devices.

8. Wireless microphone manufacturers and users again recommend that the Commission adopt a number of requirements to prevent interference to wireless microphones, including: (1) Limiting new low power devices to fixed operation, (2) prohibiting new low power devices from operating on channels adjacent to occupied TV channels and/or reserving six vacant TV channels in each market for wireless microphones to ensure that spectrum is available for their use, (3) requiring new low power devices to incorporate spectrum sensing to detect wireless microphones, and (4) requiring new low power devices to sense for the presence of a ''smart beacon'' that would be operated when wireless microphones are in use in an area (Shure has since repudiated its support for a beacon requirement). Public safety/land mobile interests believe that new low power devices should not be allowed to operate on channels 14–20 anywhere in the country because of the difficulties in enforcing geographic restrictions on operation.

9. On March 30, 2007, the Commission's Office of Engineering and Technology released a report on the results of its DTV receiver testing program, see DA 07–3457, 22 FCC Rcd 13846 (2007). This testing program examined the out-of-channel interference rejection performance of a representative sample of eight DTV receivers with fifth generation tuners that were available in 2005 and 2006. A total of 2055 individual measurements were performed on these receivers. Each test involved feeding a desired signal to the television under test and injecting an interfering signal on a different channel or combination of channels. The different tests varied the level of the desired signal and interfering signal(s). In these tests, no receiver appeared to fully achieve the Advanced Television Systems Committee's (ATSC) recommended guidelines for interference rejection performance—guidelines that are generally more stringent than the receiver performance assumptions on which current DTV interference protection criteria are based. However, the tests did show that the performance of digital television receivers exceeds the performance levels on which the Commission's digital television service and interference rules are based.

10. On July 31, 2007, the Office of Engineering and Technology released a technical report on an initial study of prototype TV band devices that were submitted to the Commission's Laboratory for testing. This report evaluated the performance of two samples of prototype devices; one device had both sensing and transmitting capabilities (although the two functions were not linked) and the other had only sensing capability. This testing found that one of the two devices was generally able to reliably detect TV signals in the laboratory bench tests at the claimed −114 dBm sensing level, but did not perform well sensing wireless microphones. This device was not tested in the field at the manufacturer's request. The other device was not able to reliably sense either TV or wireless microphone

signals at the −114 dBm level in either the Laboratory bench tests or in field tests. The builder of this device subsequently determined that the device's sensing function was not operating properly. In an anecdotal observation, the transmitter of the second device was found to cause co-channel and adjacent channel interference to TV service at distances of 87 meters and 47–50 meters, respectively.

11. Also on July 31, 2007, the Office of Engineering and Technology released a second technical report describing direct pick-up interference tests of three digital cable ready television receivers. In these tests, three digital cable ready (DCR) receivers connected directly to cable service were examined for their susceptibility to interference from devices such as might operate within the TV white spaces. Tests were performed with the interfering signal source separated from the DCR receiver by distances of 2 meters or ten meters and, in most observations, by a residential wall. These tests showed that a signal as low as 6.3 dBm EIRP could cause interference at a distance of two meters and that a signal as low as 15.3 dBm could cause interference at a distance of 10 meters. While these tests were limited in scope (only three receivers were tested), they nonetheless provide an empirical demonstration of the potential for such interference at relatively low power levels.

12. On October 15, 2008, the Office of Engineering and Technology issued a technical report on a second phase of its study of sample prototype TV band devices. This second phase study examined the performance of prototype devices from five parties. All of these devices had capabilities for sensing TV signals, three had capabilities for sensing wireless microphones and one (that of Adaptrum) had a transmit capability (this transmit capability was not linked to the device's sensing capabilities). One of the devices (that of Motorola) also had a geolocation/database access capability.

13. In the laboratory tests of TV signals, the Phase II prototype devices were able to detect a ''clean,'' *i.e.*, unfaded, DTV signal on a single channel at levels in the range of −116 dBm to −126 dBm. The detection threshold sensitivity of the devices varied from −106 dBm to −128 dBm when recorded off-air DTV signals, which included multi-path fading and other ''real-world'' distortion, were used. When the devices were tested with DTV signals present in adjacent channels, the staff found that in the presence of moderate-to-strong signals in a first adjacent channel, the detection threshold sensitivity of all of the devices was severely impacted. For some of the devices, the degradation in the detection sensitivity was as much as 60–70 dB. In some cases, the degradation was such that the detection threshold could not be measured. The Phase II Measurement Report indicates that this could impact significantly the ability of the devices to reliably detect TV signals within stations' service areas.

14. TV sensing field tests were performed at nine locations with four of the prototype devices. In most cases, the devices correctly reported channels as occupied when the device was operated within the service contour of the stations broadcasting on those channels and viewable signals were observed on the channels. In some instances, however, three of the devices incorrectly reported channels as unoccupied (available) when the device was operated within a station's service contour and the signal was viewable. All of the devices reported some channels as occupied when the WSD was operated outside of the service contours of stations broadcasting on those channels whether the signal was viewable or not. In addition, one device generally reported most channels occupied, whether the device was operating inside or outside any service contours and whether the signal was viewable or not. During the field tests, the Motorola device's geolocation/database access feature was used in combination with its sensing capabilities. In those tests, the Motorola device correctly reported all occupied channels used by stations within whose contours the WSD was operated.

15. The second phase study also examined the ability of devices to sense wireless microphones designed to operate under part 74 of our rules. The two operating devices with wireless microphone sensing capability, those of Philips and I2R, were tested in the laboratory for their ability to detect wireless microphones (models using both FM/analog and digital) operating within UHF TV channels. With no other signals present, the devices were able to detect wireless microphones at levels ranging from −103 dBm to −129 dBm depending on the type of microphone, and the device. However, in the presence of DTV signals in adjacent channels, the detection threshold of both devices was degraded such that it affected the ability of the devices to reliably detect the microphone signals.

16. Finally, the second phase study conducted tests with the Adaptrum device's transmitter. The device's transmitter was characterized in the laboratory and then used to investigate interference potential to DTV signal reception. Anecdotal tests demonstrated that co-channel interference would occur at line-of-sight distances of up to 360 meters at an EIRP level of approximately +7 dBm when the DTV set was receiving a weak signal off-the-air using a receive antenna at a height of 9.3 meters. No interference was observed when the device transmitted on an immediate adjacent channel even with the transmitter in close proximity to the receiver with a roof-top antenna. No other configurations were tested for interference. Anecdotal tests with the Adaptrum transmitter were performed at two field sites to assess the interference potential from a TVBD transmitter to cable television reception via direct pick-up of signals by cable system components. These tests showed that under certain circumstances, when the transmit antenna was placed in close proximity to a cable connected TV, direct pick-up interference occurred. The report indicated that the direct pick-up interference potential appears to be highly dependent on the interconnection among the various receive system components (e.g., cable amplifiers, splitters and set-top boxes) being used.

17. In the *Second Report and Order*, the Commission adopted rules to allow unlicensed radio transmitters to operate in the broadcast television spectrum at locations where that spectrum is not being used by licensed services (this unused TV spectrum is often termed ''white spaces''). This action will open for use a significant amount of spectrum with very desirable propagation characteristics that has heretofore lain fallow. These new rules will allow the development of new and innovative types of unlicensed devices that provide broadband data and other services for businesses and consumers without disrupting the incumbent television and other authorized services that operate in the TV bands. In addition, because transmissions on frequencies in the TV bands are less subject to propagation losses than transmissions in the spectrum bands where existing low power broadband unlicensed operations are permitted, *i.e.*, the 2.4 GHz and 5 GHz bands, the Commission anticipates that allowing unlicensed operation in the TV bands will benefit wireless Internet service providers (WISPs) by extending the service range of their operations. This will allow wireless broadband providers that use unlicensed devices to reach new customers and to extend and improve their services in rural areas. We

anticipate that allowing use of the TV white spaces by unlicensed devices will have significant benefits for both businesses and consumers and thereby promote more efficient and effective use of the TV spectrum.

18. The Commission adopted a plan that will allow both fixed and personal/portable unlicensed devices to operate on unused television channels in locations where such operations will not result in harmful interference to TV services (including reception by cable headends and low power TV stations, i.e., TV translator, low power TV, TV booster, and Class A TV stations) and other services that use the TV bands. The Commission recognizes the importance of protecting licensed services from harmful interference and the novel challenges involved in reliably identifying unused TV channels. Therefore, it is taking a cautious and conservative approach in this plan, balancing the need to provide sufficient opportunities for proponents to develop viable unlicensed TV band devices (TVBDs) with measures to ensure that such devices fully protect the important licensed services that operate in the TV bands. In allowing the introduction of unlicensed TVBDs, the Commission also believes it is important to avoid the possibility of disrupting or causing uncertainty in the DTV transition, the current ongoing process whereby TV stations are changing from analog to digital (DTV) operation. As set forth in the *First Report and Order and Further NPRM of Proposed Rulemaking (First R&O/Further NPRM)* in this proceeding, the Commission addressed this concern with regard to the DTV transition by restricting the marketing of unlicensed TVBDs until February 18, 2009, the date when the DTV transition will end and all full-power TV stations will be operating on a single channel, and only with digital signals.

19. The Commission anticipates that the capabilities of products for operating in this spectrum will develop and evolve over time and that much will be learned about the potential for unlicensed TVBDs to cause interference to licensed services and how to avoid that interference. Therefore, the Commission may need to revisit these rules to make adjustments both to provide more flexibility for unlicensed devices and to refine the protections for licensed services. Consistent with our objective to allow unlicensed TVBDs to operate with the most flexibility and capabilities possible consistent with protection of licensed services, the Commission has directed its staff to conduct a review and report to the Commission in two years from the date of this *Second Report and Order* on the state of these devices, including the types of devices on the market, the extent of their implementation, technical developments, any interference problems that may have arisen, and aspects of the rules that should be altered to increase features and opportunities for use or to address conflicts.

20. The Commission also denied all aspects of a petition for reconsideration submitted by the New America Foundation and the Champaign Urbana Wireless Network (NAF/CUWN). In particular, the Commission denied their request that it (1) Not re-open the issue of whether to permit new uses of the TV bands on a licensed or unlicensed basis; (2) allow personal/portable devices on channels 14–20; and (3) allow marketing of new unlicensed TV band devices prior to the end of the DTV transition.

21. *Overview of Rules for Unlicensed TV Band Devices.* The new rules provide for operation of two types of unlicensed TVBDs that may provide broadband data and other types of communications services: (1) Fixed devices, which will operate from a fixed location with relatively higher power and could be used to provide a variety of services including wireless broadband access in urban and rural areas, and (2) personal/portable devices, which will use lower power and could, for example, take the form of devices such as Wi-Fi-like cards in laptop computers or wireless in-home local area networks (LANs). In order to operate without causing interference to licensed services, both types of devices will be required to be able to reliably determine which channels are occupied by licensed operations at their location at any given time and to avoid interfering with services on those channels using the following methods. Devices will be required to identify unused channels as follows:

(a) A fixed device must employ both geo-location/database access and spectrum sensing capabilities that enable the device to listen for and identify the presence of signals from other transmitters; the geo-location function for a fixed device may also be performed by a professional installer;

(b) A personal/portable device must either (1) be under the control of a fixed device or a personal/portable device that employs geo-location/database access and spectrum sensing or (2) employ geo-location/database access and spectrum sensing itself.

22. In addition, the Commission adopted rules that will allow for certification of personal/portable devices that do not include geo-location and database access capabilities and are not controlled by another device but rather determine available channels using spectrum sensing, perhaps in combination with some other techniques. These devices will be required to meet a ''proof of performance'' standard that they will not cause harmful interference to incumbent radio services. Such devices will be subject to all of the other requirements for personal/portable devices but would be limited to 50 milliwatts (mW) EIRP rather than the 100 mW authorized for personal/portable devices for which available channels are determined based on the geo-location and database method. The certification process will require submittal of a sample for testing in our laboratory and in the field similar to the process that the FCC Laboratory followed for testing of TV band devices. The sample device must be a fully functioning pre-production prototype, identical to the device that will be marketed except for cosmetics. The testing will be open to the public. The application must also show how the device will protect the various incumbent radio services discussed. The determination of whether to certify the device will be based on a demonstrated ability to avoid causing harmful interference with an extremely high degree of reliability. If the device is certificated, the Commission will permit routine certification of other devices that have identical characteristics (i.e., have the identical electrical characteristics and antenna system). It will endeavor to complete the certification process within 180 days of submittal of the device for testing, barring any unforeseen circumstances.

23. *Fixed Devices.* Fixed devices will be allowed to communicate with other fixed devices and with personal portable devices. These devices will be required to determine their geographic location through an incorporated geo-location capability or from a professional installer and to access and register with a database system that contains records of protected services and receive back a list of the available channels at their location. In addition, fixed devices will be required to operate with antennas mounted outdoors and to use spectrum sensing to identify any wireless microphone operations and any other protected signals that might be present at their location but do not appear in the database. These devices will be required to sense, at levels as low as −114 dBm, TV signals (digital and analog), wireless microphone signals, and signals of other services

that operate in the TV bands on intermittent basis. Fixed devices will be allowed to operate at up to 1 watt (W) transmitter output power and with a gain antenna to achieve 4 W equivalent isotropically radiated power (EIRP), and to communicate with other fixed devices and personal/portable devices, except that they may not communicate with personal/portable devices when operating on channels in the range 2–20. The plan for fixed devices is similar to the provisions of the draft standard for TVBDs under consideration by IEEE 802.22.

24. *Personal/portable Devices.* Personal/portable devices will be allowed to communicate with fixed devices and with other personal/portable devices. These devices will be allowed to operate in two different modes: (1) Mode I—client, whereby a personal/portable device is controlled by a fixed or a personal/portable device operating in Mode II that has determined the available channels in the area and/or (2) Mode II—independent, whereby a personal/portable device determines the available channels using its own internal geo-location/database access capabilities. Personal/portable operations will be permitted at up to 100 mW EIRP, with no antenna gain, except that when operating on a channel adjacent to a TV station or other licensed station/service and within the protected coverage area of that service, operations will be limited to 40 milliwatts. A device operating in Mode II using its own internal geo-location and database access capabilities will be allowed to communicate with other personal/portable devices and function as the master device in a master/client link with another personal/portable device. Devices operating in either mode will be required to sense TV signals, wireless microphone signals, and signals of other services that operate in the TV bands, including those that operate on an intermittent basis, at levels as low as −114 dBm. Personal portable devices will not be required to register with the database system.

25. *All Devices.* All unlicensed TV band fixed and personal/portable TV band devices will be permitted to operate on TV channels 21–51, excluding channel 37. In addition, fixed TVBDs that only communicate with other fixed TVBDs will be permitted to operate on channels 2 and 5–20, except that they must avoid operation on channels used by private land mobile radio service (PLMRS), *i.e.,* public safety, and commercial mobile radio service operations on channels in certain markets and areas adjacent to them. Also, in individual markets where there are Private Land Mobile Radio Service or Commercial Mobile Radio Service (PLMRS/CMRS) operations on channels 14–20, two channels in the range 21–51 will be reserved for operation by wireless microphones such that TVBDs will not be permitted on those channels. This plan for channel use is consistent with the requests of the various white space proponents and would reserve channels for a ''safe harbor'' for operation of wireless microphones and ensure protection of the public safety and other land mobile services that use channels 14–20. At this time, we are only permitting fixed TVBDs to operate on channels that are not immediately next to (first adjacent on either side of) the channel of a TV station; personal portable devices will be allowed to operate on first adjacent channels to a TV station subject to the power limitation indicated. All unlicensed TV band devices will be required to limit their out-of-band emissions in the first adjacent channel to a level 55 dB below the power level in the channel they occupy, as measured in a 100 kHz bandwidth. In addition, all TVBDs will be required to comply with a more stringent out-of-band emissions band at the edges of channels 36 and 38 that are adjacent to channel 37 in order to protect medical telemetry devices on that channel 37. Fixed devices will also be required to periodically transmit a signal with their identification when they are operating. This will facilitate identification of sources of interference. The database system for fixed stations and personal/portable devices with geo-location and database access capability will be managed by a database manager or managers selected by our Office of Engineering and Technology. The specific provisions of this plan are presented below.

TV Bands Database System Requirements

26. All unlicensed fixed TV band devices and all personal/portable devices, except for those that operate in Mode I under control of a fixed or Mode II personal/portable device, will be required to access a TV bands database to obtain information on the available channels at their location and all unlicensed fixed TVBDs will be required to register their operations. In the *NPRM* and the *First R&O/Further NPRM*, the Commission made proposals and asked for comment on a number of specific provisions relating to this database system. In particular, the Commission requested comment on the information about authorized stations that should be in a database, such as geographic coordinates, type and class of station, transmit power level, antenna height and other antenna characteristics, the means by which an unlicensed device would access the database, and how often the database would need to be updated. The Commission addresses the specific plan for operation of the database system, including the information to be stored in the database, the requirements that apply to unlicensed TVBDs for accessing the database system, the responsibilities of a database administrator, and database administrator selection.

27. *Database system plan and operation:* The Commission has adopted a database plan that will provide for efficient and effective management of licensee and TVBD records and the identification of available channels for TVBDs. As an initial matter, it will consider authorizing more than one entity to operate a TV bands database. Thus, depending on expressed interest to a solicitation for database managers, the Commission could select multiple database administrators that could offer services on a competitive basis. In this regard, the Commission is mindful that sufficient safeguards must be put in place to ensure that a TVBD would receive the same set of available channels regardless of which database it queries such that entities compete solely on the basis of cost and speed and efficiency of service. The database(s) will be a privately owned and operated service that unlicensed TV band devices must contact to obtain information on channel availability at the locations where they are operated and, in the case of fixed devices, to register their operation at those locations. The Commission will permit database administrators to charge fees for registration of fixed devices and the provision of lists of available channels to fixed devices and personal/portable devices. It believes that third parties will be in the best position to develop and manage a database in a fair and equitable manner and to address the day-to-day operational demands. Any TV bands database will be required to contain information on: (1) All of the authorized services that operate in the TV bands using fixed transmitters with designated service areas, including full service and low power TV stations, (2) the service paths of broadcast auxiliary point-to-point facilities, (3) the geographic regions served by PLMRS/CMRS operations on channels 14–20, (4) regions served by the Offshore Radiotelephone Service, and (5) the locations of cable headends and low

power TV receive sites that are outside the protected contours of the TV stations whose signals they receive. In addition, a TV bands database will be required to contain the locations of registered sites where wireless microphones and other low power auxiliary devices are used on a regular or scheduled basis. A TV bands database will be required to register unlicensed TV band devices in accordance with the rules and to provide such devices with a list of the available channels at the specific locations where they are operating.

28. Unlicensed TV band devices, except for those operating as a client to a either a fixed device or a personal/portable device operating in Mode II, will be required to contact a TV bands database through the Internet to obtain a list of available channels at their location in accordance with the rules set forth herein. Database administrator(s) will define protocols so that TV band devices can access a database automatically without human intervention. A TV bands database will calculate the television channels that are available for use by unlicensed TV band devices at their individual locations based on the information in the database and consistent with the separation distances set forth in the rules and then return a list of those channels to the TV band device on an approximately real-time basis. A device may then transmit only on those channels which the database indicates are available for its use. The database system will also record registration information from each fixed TV band device. The registration information will include the device's location (geographic coordinates) and contact information for its user/operator. This registration information will assist TV band device users in coordinating efficient use of the available television channels at a particular location. In addition, should any interference to licensed services occur, the registration information will assist in the identification of the source of any such interference. Finally, a TV bands database will include provisions for sharing registration data with any other Commission authorized TV bands database.

29. In considering a minimum interval for re-contacting the database system, it is important to note that protection is afforded not only to TV and other fixed facilities that do not change often, but also to mobile/portable facilities such as wireless microphones. As already described, the Commission will allow venues where wireless microphones and other low power auxiliary devices are used on a regular or scheduled basis to register such usage in the TV bands database. Because such usage could change on a daily basis, the Commission will require that fixed and mode II TVBDs to recheck the database, at a minimum, on a daily basis. Rechecking in this manner will also provide for timely protection of new or modified licensed facilities. This approach accounts for the continual changes that will occur over time as new licenses are issued or inaccuracies are corrected. The Commission believes that because database access will be performed automatically over the Internet, rechecking the available channels will not be burdensome. If a device fails to contact a TV bands database on any given day, it will be required to cease transmitting after a one-day grace period. That is, it must cease operating at 11:59 PM on the day following a day when it does not contact a TV bands database. This grace period will allow for situations where there has been a sustained power loss, an Internet outage, or other circumstances that disrupt a device's ability to contact a TV bands database. In accessing a TV bands database to update its list of available channels, a device will only need to provide its identification information, current location and, for fixed devices, any changes in its registration information.

30. In addition to the daily database update requirement, personal/portable devices operating in Mode II will be required to re-establish their location coordinates and to access a TV bands database for a list of available channels each time they are activated, *i.e.*, powered on, or move. If such a device maintains a powered on state for one day or more, the device will then be required to re-check a TV bands database as described above. The Commission finds that these measures will ensure that both fixed and personal/portable devices properly maintain a current list of available channels.

31. *Database information.* To ensure that a TV bands database contains sufficient elements to both determine available TV channels for a given location and to register fixed TVBDs, the Commission must define the set of data elements for the database. The elements for the various types of systems that will be in the database are described herein. Additionally, the Commission notes that for all coordinates it will require that they be referenced to the North American Datum of 1983 (NAD 83) and as described, it will require accuracy to within 50 meters.

32. The information collected from fixed unlicensed TV band devices will include:

(1) FCC Identifier (FCC ID) of the device;

(2) Manufacturer's serial number of the device;

(3) Device's coordinates (latitude and longitude);

(4) Name of the individual or business that owns the device;

(5) Name of a contact person responsible for the device's operation;

(6) Address of the contact person;

(7) E-mail address of the contact person;

(8) Phone number of the contact person.

33. The information collected from personal/portable unlicensed TV band devices, which will not be registered and only access the database for available channels, will include:

(1) FCC Identifier (FCC ID) of the device;

(2) Manufacturer's serial number of the device;

(3) Device's coordinates (latitude and longitude).

34. The FCC ID and serial number of the TV band device will uniquely identify individual fixed unlicensed TV band devices. This information will assist the Commission if compliance issues concerning devices arise. A fixed TV band device will be required to update any information that has changed when it makes its daily check with a TV bands database to determine if the list of available channels at its location has changed. If a fixed device does not check the database for three months, its registration will be removed from the database.

35. A database administrator will not be responsible for resolving claims of interference from TVBDs. If there is a claim of interference, a database administrator, upon request from the Commission, must provide TVBD identifying information. If a device is found to be causing interference, the Commission may then require that the party responsible for the unlicensed device take corrective actions or cease operating the device until the interference is resolved. In addition, if a representative of the Commission attempts and is unable to contact the person responsible for a device that is determined to be causing interference, the Commission may require the TV bands database to return a message of ''no channels available'' to the device at its next scheduled re-check. This will effectively shut down the device until contact is made with the responsible party so that the interference can be resolved. The database administrator

will rescind a ''no channels available'' status for that device only upon authorization by the Commission.

36. Now, regarding services that will be protected, a TV bands database will contain the following information on full-power television stations, digital and analog Class A stations, low-power television stations (LPTV), television translator stations, and television booster stations:

(1) Transmitter coordinates (latitude and longitude);

(2) Effective radiated power (ERP);

(3) Height above average terrain of the transmitter (HAAT);

(4) Horizontal transmit antenna pattern (if the antenna is directional);

(5) Channel number;

(6) Station call sign.

A TV bands database will also be required to include data on the distributed transmission system (DTS) facilities of stations using that technology and to use that data in determining the protected service areas of such stations. The information for full service TV stations is available on the Media Bureau's Consolidated Data Base System (CDBS).

37. A TV bands database will also include information on Broadcast Auxiliary Service (BAS) facilities, which use vacant television channels for fixed point-to-point links. For permanent links, this information is available from the Commission's Universal Licensing System (ULS). For temporary BAS links, the party authorized to operate the link may voluntarily submit this information to a TV bands database. For each BAS link the TV bands database will contain:

(1) Transmitter coordinates (latitude and longitude);

(2) Receiver coordinates (latitude and longitude);

(3) Channel number;

(4) Call sign.

38. In some geographic regions, certain television channels from channel 14 through channel 20 are set aside for use by PLMRS and CMRS operations. These regions are specified in the Commissions rules. A TV bands database will contain the center coordinates (latitude and longitude) for each of these regions and the television channels used in each region. For each of these regions, a TV bands database will include the following data elements:

(1) Region name;

(2) Channel(s) reserved for use in the region;

(3) Geographic center of the region (latitude and longitude);

(4) Call sign.

39. In addition, numerous PLMRS and CMRS licenses have been granted in these channels outside of the identified geographic regions under waivers to the Commission's rules. These ''waiver'' licenses are specified in various ways such as, for example, by allowing a particular transmitted power and antenna height for a base station at a specified location or by specifying a geographic area of coverage, such as the boundaries of a local county administrative area. The database can be populated by information pertaining to facilities authorized by the Commission via an extract from the Wireless Telecommunication Bureau's ULS database. This database contains information on license holders, facility operation parameters (frequency, location, etc.), and any special conditions that apply. For each of these waiver licenses the following information will be placed into a TV bands database:

(1) Transmitter location (latitude and longitude) or geographic area of operations;

(2) Effective radiated power;

(3) Transmitter height above average terrain (if specified);

(4) Antenna height above ground level (if specified);

(5) Call sign.

In cases where the operator of a PLMRS/CMRS system licensed under a waiver operates multiple transmitters (not including systems that are licensed to operate in a coverage area), information on each transmitter will be required to be maintained in a TV bands database.

40. The Offshore Radiotelephone Service uses channels 15–18 along the coast of the Gulf of Mexico. The Commission's rules designate four regions to protect this service. For each of the four regions a TV bands database will contain the following information:

(1) Geographic boundaries of the region (latitude and longitude for each point defining the boundary of the region;

(2) Channel(s) used by the service in that region.

41. As noted, cable television systems often use antennas at their headends to receive broadcast television signals and then retransmit those signals to subscriber households throughout the cable system. In many cases, cable systems are able to receive broadcast TV signals at locations outside a stations' protected service contour by using high gain antennas mounted on top of buildings or tall towers. Records identifying cable systems that receive TV stations outside of their service areas are not currently maintained in the Commission's databases. As indicated, the Commission is extending protection to the reception of TV signals by such cable headends. Therefore, we are allowing cable operators to register, with a TV bands database, their headends that receive TV signals outside of a station's protected contour and requiring that a TV bands database afford protection to those facilities in accordance with the provisions indicated. A TV bands database will collect the following information to register a cable headend:

(1) Name and address of cable company;

(2) Location of the headend receiver (latitude and longitude);

(3) Channel number of each television channel received, subject to the following condition: channels for which the cable headend is located within the protected contour of that channel's transmitting station are not eligible for registration in the database;

(4) Call sign of each television channel received and eligible for registration;

(5) Location (latitude and longitude) of the transmitter of each television channel received.

42. Television translator and low power stations, including Class A TV stations, rebroadcast the signal of a full service station or another low power station. Like many cable headends, TV translators/low power stations often receive the signal of the station they retransmit outside the retransmitted station's protected contour. The TV translators and low power stations that currently receive the signal they retransmit off-the-air at locations beyond the originating station's protected service contour are not currently recorded in the Commission's databases. To protect the reception of signals at the receive sites of these stations, the Commission will allow the licensees of such translators and low power stations to register their receive sites with a TV bands database and require the database to afford those sites protection in the same manner as similarly situated cable headends. A TV bands database will collect the following information to register a translator/low power receive site:

(1) Call sign of the TV translator or low power TV station;

(2) Location of the TV translator or low power station receive site (latitude and longitude);

(3) Channel number of the retransmitted television station, subject to the following condition: a channel for which the television translator receive site is located within the protected contour of that channel's transmitting

station is not eligible for registration in the database;

(4) Call sign of the retransmitted television station;

(5) Location (latitude and longitude) of the transmitter of the retransmitted television station.

43. As discussed, low power auxiliary stations such as wireless microphones and wireless assist video devices operate in the television bands on a secondary basis under part 74 of the Commission's rules. These devices are usually licensed to operate over a broad geographic area and a wide range of television channels. The use of these devices is sometimes sporadic and nomadic and registration of the locations of such operations' locations in a TV bands database would not be practical. However, in many cases wireless microphones and wireless assist video devices are used regularly and predictably, such as at major sporting events facilities, movie studio lots, and television studios. For these situations, the low power auxiliary device users will be allowed to register in a TV bands database, the location where the devices are used to aid in avoiding interference from TV band devices. In the case of large event facilities such as race tracks and golf courses, the Commission will allow multiple registrations with different geographic coordinates to enable protection of the entire site. The Commission will require that requests for registration of low power auxiliary devices that operate on a seasonal basis, only on certain days within a week or only at specific times include such information; TVBDs will be restricted from operation in the channels used at registered sites only on days and at times when low power auxiliary devices at the sites are in operation. Low power auxiliary registrations will be valid for no longer than a year, after which they may be renewed. The database will collect the following information on registered sites that use low power auxiliary devices:

(1) Name of the individual or business that owns the low power auxiliary device(s);

(2) The name of a contact person;

(3) An address for the contact person;

(4) An e-mail address for the contact person (optional);

(5) A phone number for the contact person (optional);

(6) Coordinates where the device(s) are used (latitude and longitude);

(7) Channels used by the low power auxiliary devices operated at the site;

(8) Specific months, days and times when the device(s) are used.

44. *Database Administration.* The Commission does not maintain a database of all TV and other stations and operations in the TV bands that could be accessed regularly in real-time by a large number of TVBDs dispersed throughout the country. It will designate one or more database administrators from the private sector to create and operate a TV bands database or databases. The Commission recognizes the interests of Google and other TVBD proponents in ensuring that database services be made available on a fair and low cost (or no cost) basis and believes that providing for authorization of more than one party to operate a TV bands database will serve that purpose. The Commission will issue a public notice requesting proposals from entities desiring to administer a TV bands database. Any entity that ultimately administrators such a database must make its services available to all TV band device users on a non-discriminatory basis. In addition, to ensure stability for these new devices, the Commission will require each database administrator to provide services for a five-year term, which, at the Commission's discretion, may be renewed. In the event that there is only a single a database administrator and that entity does not wish to continue at the end of its term, it will be required to transfer its database along with the IP address(es) and URL(s) used to access the database to another designated entity and would be allowed to charge a reasonable price for conveyance of that resource.

45. If the Commission chooses multiple entities to administer TV bands databases, it must ensure that each database contains consistent information so that regardless of which database a TVBD queries, it receives the same list of available channels in an area. Because a TVBD will only be required to contact a single TV bands database, there is a need for the TV bands databases to share accurate and timely registration information so that each database has a timely view of the radio environment and can make the best channel availability determinations possible. Therefore, the Commission will require that each TV bands database, at a minimum on a daily basis, provide to each other TV bands database, all registration information it receives during the previous day. This data sharing requirement extends only to registrations of fixed devices and protected facilities that are not otherwise captured in Commission databases, including wireless microphone and wireless assist video device locations, cable headends, and TV translator/low power receive sites. The databases can obtain information on other services, such as full service TV, land mobile licenses, etc. directly from Commission databases. The Commission believes that this sharing requirement is extremely important to the success of TVBDs as it decreases the burden on any one database and also fosters cooperation between the various database administrators. Although, the Commission is requiring the TV bands databases to share information daily, it will leave the actual implementation details up to the database administrators. Once the specific entities are selected, they will need to agree on a specific protocol and data format requirement so that manufacturers can build standard devices that can work with any of the databases and each database can easily transmit and receive data from each other database. In addition, the database administrators may agree whether to share on a more frequent timeframe than daily.

46. A TV bands database will obtain much of the information on licensed use of the television bands for populating the database from the existing Commission databases. The TV bands database will be required to synchronize itself with the existing Commission databases at least once a week so that the information in the TV bands database remains current. Entities operating facilities that are entitled to protection but that are not licensed by the Commission, *e.g.*, cable headends and TV translator/low power TV station receivers, will register their facilities through a process established by the database administrators. The Commission will allow the TV bands databases to charge fees necessary to support the creation and operation of the database. These fees may be imposed on the operators of the TV band devices for access to the database and/or on the manufacturers of TV band devices, but not generally on users of the television bands who are not currently in the Commission's database and desire to be included in the database. The Commission does not believe it is appropriate to charge operators of licensed service for protection of their operations from unlicensed devices. It believes that competition among databases will serve to keep fees low and reasonable. However, if parties believe that the fees charged by a TV bands database are excessive, they may petition the Commission for relief.

47. The Commission recognizes that there is potential for inaccurate

information to be entered into the database, for omissions to occur, and for records to be present for licensed facilities that are no longer operating. Such inaccuracies could be introduced in several ways. For example, any errors that might inadvertently be present in a Commission database could be transferred to a TV bands database. In addition, the fact that we are permitting information on certain services in the TV bands to be voluntarily provided introduces another potential for error. Parties submitting such information could inadvertently provide inaccurate coordinates, channel or other information, and there is also the potential that a party could knowingly provide false information on channel use at a location. The database administrators will be expected to respond quickly to verify and/or correct data in the event that a party brings claims of inaccuracies in the database to its attention, including advising the Commission of any errors that may appear in the Commission's records. Further, the Commission reserves the right to request the removal of voluntarily submitted information from a TV bands database in the event that such information is determined to be inaccurate or not in compliance with the rules.

Ordering Clauses

48. Part 15 of the Commission's rules is amended as specified in Appendix B of the Order, and such rule amendments shall be effective March 19, 2009, except for §§ 15.713, 15.714, 15.715 and 15.717, which contain information collection requirements that have not been approved by the Office of Management and Budget. The Federal Communications Commission will publish a document in the **Federal Register** following approval of the information collection by the Office of Management and Budget (''OMB'') announcing the effective date of those rules.

49. Pursuant to Sections 4(i), 302, 303(e), 303(f), 303(g), 303(r) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 302, 303(e), 303(f), 303(g), 303(r) and 405, the petition for reconsideration filed by the New America Foundation and the Champaign Urbana Wireless Network *is denied.*

50. Pursuant to Sections 4(i), 302, 303(e), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 302, 303(e), 303(f), 303(g) and 303(r), the Emergency Request filed by The Association For Maximum Service Television, Inc., The National Association of Broadcasters, The ABC, NBC, CBS, and FOX Television Networks, and The Open Mobile Video Coalition *is denied.*

51. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of the Second Report and Order, including the Final Regulatory Flexibility Analysis, to the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

Final Regulatory Flexibility Analysis

52. As required by the Regulatory Flexibility Act (RFA),[1] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rule Making* (NPRM) in ET Docket No. 04–186 [2] and an additional IRFA was incorporated in the *First Report and Order and Further Notice of Proposed Rule Making* (Further NPRM) in ET Docket No. 04–186.[3] The Commission sought written public comment on the proposals in the *NPRM* and in the *Further NPRM,* including comment on the IRFAs. No comments were received in response to either IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.[4]

A. Need for, and Objectives of, the Second Report and Order

53. The Second Report and Order allows low power unlicensed transmitters to operate in the TV broadcast bands at locations where spectrum is not being used by authorized services. The new rules provide for operation of two types of unlicensed devices that may provide broadband data and other types of communications services: (1) fixed devices, which will operate from a fixed location with relatively higher power and could be used to provide a variety of services including wireless broadband access in urban and rural areas, and (2) personal/portable devices, which will use lower power and could, for example, take the form of devices such as Wi-Fi-like cards in laptop computers or wireless in-home local area networks (LANs). In order to operate without causing interference to licensed services, both types of devices will be required to be able to reliably determine which channels are occupied by licensed operations at their location at any given time and to avoid interfering with services on those channels. The specific compliance requirements are described in Section D of this RFA.

54. The actions in this Second Report and Order will open for use a significant amount of spectrum with very desirable propagation characteristics that has heretofore lain fallow. These new rules will allow the development of new and innovative types of unlicensed devices that provide broadband data and other services for businesses and consumers without disrupting the incumbent television and other authorized services that operate in the TV bands. In addition, because transmissions on frequencies in the TV bands are less subject to propagation losses than transmissions in the spectrum bands where existing low power broadband unlicensed operations are permitted, *i.e.*, the 2.4 GHz and 5 GHz bands, the Commission anticipates that allowing unlicensed operation in the TV bands will benefit wireless internet service providers (WISPs) by extending the service range of their operations. This will allow wireless broadband providers that use unlicensed devices to reach new customers and to extend and improve their services in rural areas. The Commission anticipates that allowing use of the TV white spaces by unlicensed devices will have significant benefits for both businesses and consumers and thereby promote more efficient and effective use of the TV spectrum.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

55. No comments were received in response to either the IRFA in the *NPRM* or the IRFA in the *Further NPRM.*

C. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

56. The RFA directs agencies to provide a description of, and, where feasible, an estimate of, the number of small entities that may be affected by the rules adopted herein.[5] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.''[6] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[7] A

[1] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 857 (1996).

[2] *NPRM,* 19 FCC Rcd at 10018.

[3] *Further NPRM,* 21 FCC Rcd at 12299.

[4] *See* 5 U.S.C. 603, Title II, 110 Stat 857 (1996).

[5] 5 U.S.C. 604(a)(3).

[6] 5 U.S.C. 601(6).

[7] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small-business concern'' in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C.

Continued

''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).[8]

57. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.''[9] The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, which is: all such firms having 750 or fewer employees.[10] According to Census Bureau data for 2002, there were a total of 1,041 establishments in this category that operated for the entire year.[11] Of this total, 1,010 had employment of under 500, and an additional 13 had employment of 500 to 999.[12] Thus, under this size standard, the majority of firms can be considered small.

58. *Wireless Service Providers.* The SBA has developed a small business size standard for wireless firms within the two broad economic census categories of ''Paging''[13] and ''Cellular and Other Wireless Telecommunications.''[14] Under both categories, the SBA deems a wireless business to be small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 2002 show that there were 807 firms in this category that operated for the entire year.[15] Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more.[16] Thus, under this category and associated small business size standard, the majority of firms can be considered small. For the census category of Cellular and Other Wireless Telecommunications, Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year.[17] Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more.[18] Thus, under this second category and size standard, the majority of firms can, again, be considered small.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

59. Unlicensed transmitters are currently required to be authorized under the Commission's certification procedure as a prerequisite to marketing and importation, and TV band devices would be subject to a certification requirement. The existing certification procedure in the Commission's rules will be used for TV band devices, except that TV band devices that rely on spectrum sensing as the sole method of determining whether a channel is available will have additional certification requirements which are described below. The compliance requirements for TV band devices are as follows.

Fixed Devices

- May communicate with other fixed devices and with personal/portable devices
- Are permitted to operate on TV channels 2–51, excluding channels 3, 4 and 37; may not operate on adjacent TV channels; and, must not use any channels used locally by the private land mobile radio service (PLMRS)
- Determine their geographic location by means of an incorporated geo-location capability or a professional installer
- Access a database system to determine the available channels at a location
- Use outdoor antennas
- Are allowed up to 1 watt (W) transmitter output power with a gain antenna to achieve up to 4 W effective isotropic radiated power (EIRP)
- Must register identifying information in a database to help investigate any potential interference due to higher powered operations.

Personal/Portable Devices

- May communicate with fixed devices and with other personal/portable devices
- Are permitted to operate on TV channels 21–51, excluding channel 37
- Can operate in two different modes:
  - Mode I—client, controlled by a fixed device that has determined the available channels in the area
  - Mode II—independent, in which the device determines the available channels using its own internal geo-location/database access capabilities.
- 100 milliwatts (mW) EIRP, but limited to 40 mW EIRP when operating adjacent to occupied channels.

All TV Band Devices

- Must be capable of sensing TV and wireless microphone signals at levels as low as −114 dBm.
  - Operation prohibited on channels where wireless microphones are detected.
  - Will provide an additional indication as to whether a TV channel is occupied.
  - Will encourage the further development of sensing technology.

60. The purpose of the TV bands database system for fixed and Mode II personal/portable devices is to identify all services in the TV bands that are eligible for protection. A TV band device will send its geographic coordinates to the database, which will return a list of channels available at that location. The Commission will issue a Public Notice to solicit interested parties in administering the database.

601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.''

[8] 15 U.S.C. 632.

[9] U.S. Census Bureau, 2002 NAICS Definitions, ''334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing''; *http://www.census.gov/epcd/naics02/def/NDEF334.HTM#N3342.*

[10] 13 CFR 121.201, NAICS code 334220.

[11] U.S. Census Bureau, American FactFinder, 2002 Economic Census, Industry Series, Industry Statistics by Employment Size, NAICS code 334220 (released May 26, 2005); *http://factfinder.census.gov.* The number of ''establishments'' is a less helpful indicator of small business prevalence in this context than would be the number of ''firms'' or ''companies,'' because the latter take into account the concept of common ownership or control. Any single physical location for an entity is an establishment, even though that location may be owned by a different establishment. Thus, the numbers given may reflect inflated numbers of businesses in this category, including the numbers of small businesses. In this category, the Census breaks-out data for firms or companies only to give the total number of such entities for 2002, which was 929.

[12] *Id.* An additional 18 establishments had employment of 1,000 or more.

[13] 13 CFR 121.201, NAICS code 517211.

[14] 13 CFR 121.201, NAICS code 517212.

[15] U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, ''Establishment and Firm Size (Including Legal Form of Organization,'' Table 5, NAICS code 517211 (issued Nov. 2005).

[16] *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with ''1000 employees or more.''

[17] U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, ''Establishment and Firm Size (Including Legal Form of Organization,'' Table 5, NAICS code 517212 (issued Nov. 2005).

[18] *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with ''1000 employees or more.''

The database will contain information about licensed services operating in the TV bands obtained from the Commission's databases, including full service and low power TV stations, Broadcast Auxiliary Service (BAS) links, and PLMRS operations under waivers. In addition, the database will contain voluntarily submitted information on services in the TV bands that are either not in the Commission's databases or are not licensed by specific coordinates, such as wireless microphones.

61. The *Second Report and Order* provides for certification of devices that rely on sensing alone based on a proof of performance standard. The manufacturer may submit an application for certification of a device that meets all of the requirements for a TV band device except for geo-location and database access. The application would be available to the public, except for information that may qualify as a trade secret under our rules. A fully functioning pre-production prototype would need to be submitted to the Commission for laboratory and field testing. The testing will be open to the public. The determination of whether to certify the equipment will depend on whether the device is shown to provide a high level of confidence that it will not interfere with incumbent radio services. It must perform at least as well as a device that uses geo-location and database access for interference avoidance. Once a device is certified under these provisions, the Commission would certify other devices that are electrically identical under the usual certification process.

62. The *Second Report and Order* imposes new reporting requirements on parties operating fixed TV band devices. Operators of fixed TV band devices will be required to register their location and information about the operator with a TV bands database. When a fixed TV band device queries the database the first time, the device will be registered in the database system. Operators of fixed TV band devices must supply the following registration information and update this information, as necessary, when performing the daily database queries to verify continued channel availability. The Commission may ask a database administrator for this information in the event that a device is found to be causing interference.

(1) FCC identifier (FCC ID) of the device.

(2) Manufacturer's serial number of the device.

(3) Device's coordinates (latitude and longitude accurate to within 50 m).

(4) Name of the entity, whether an individual or business, responsible for the device.

(5) Name of a contact person responsible for the device's operation.

(6) Address for the contact person.

(7) E-mail address for the contact person.

(8) Phone number for the contact person.

63. As noted in the *Second Report and Order,* the Commission's Office of Engineering and Technology will designate a party or parties to administer the database of authorized services in the TV bands. Much of this information will be obtained from the Commission's databases, including information on full service and low power TV stations, Broadcast Auxiliary Service (BAS) links, and PLMRS operations under waivers. However, the database will also contain information submitted voluntarily by parties operating services in the TV bands that are either not listed in the Commission's databases or are not licensed by specific coordinates. These services include BAS links authorized on a temporary basis, receive sites for TV translators and cable TV systems, and sites where wireless microphones are used regularly and predictably, such as major sporting events. The purpose of this voluntarily submitted information is to prevent TV band devices from causing interference to services that do not appear in the Commission's database. The submission of such information is strictly voluntary, but services operated by parties that do not submit this information may not be protected against interference from TV band devices.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

64. The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): ''(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.'' [19]

65. The rules adopted in the Second Report and Order may have a significant economic impact on a substantial number of small entities. For an entity that chooses to manufacture or import equipment for the subject bands, the rules would impose costs for compliance with equipment technical requirements. The costs for fixed and Mode II personal/portable devices include incorporating a geo-location method to determine the geographic coordinates and the ability to access a database of authorized services in the TV bands, for which a fee may be charged by the database administrator. The costs for all TV band devices include incorporating the ability to detect TV and wireless microphone signals. However, the burdens for complying with these rules would be the same for both large and small entities. Therefore, no disproportionate burden of compliance would be sustained by small entities. Further, the rules adopted in the Second Report and Order are ultimately beneficial for both large and small entities because they will provide for more efficient and effective use of the TV spectrum and allow the development of new and innovative types of wireless devices and communication services for businesses and consumers. Also, because transmissions in the TV band are subject to less propagation attenuation than transmissions in other bands where lower power operations are permitted (such as unlicensed operations in the 2.4 GHz band), operations in the TV bands can improve the service range of wireless operations, thereby allowing operators to reach new customers.

F. Report to Congress

66. The Commission will send a copy of the Second Report and Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act.[20] In addition, the Commission will send a copy of the second Report and Order, including the FRFA, to Congress and the Government Accountability Office. A copy of the Second Report and Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.[21]

List of Subjects in 47 CFR Part 15

Communications equipment.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

■ For the reasons discussed in the preamble, the Federal Communications

[19] 5 U.S.C. 603(c)(1)–(c)(4).

[20] *See* 5 U.S.C. 801(a)(1)(A).

[21] *See* 5 U.S.C. 604(b).

Commission amends 47 CFR part 15 to read as follows:

PART 15—RADIO FREQUENCY DEVICES

■ 1. The authority citation for part 15 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 304, 307, 336, and 544a.

■ 2. Section 15.37 is amended by adding a new paragraph (n) to read as follows:

§ 15.37 Transition provisions for compliance with the rules.

* * * * *

(n) Marketing of TV band devices operating under subpart H of this part is not permitted prior to February 18, 2009.

■ 3. A new Subpart H is added to read as follows:

Subpart H—Television Band Devices

Sec.

15.701 Scope.
15.703 Definitions.
15.705 Cross reference.
15.706 Information to the user.
15.707 Permissible channels of operation.
15.709 General technical requirements.
15.711 Interference avoidance mechanisms.
15.712 Interference protection requirements.
15.713 TV bands database.
15.714 TV bands database administration fees.
15.715 TV bands database administrator.
15.717 TVBDs that rely on spectrum sensing.

Subpart H—Television Band Devices

§ 15.701 Scope.

This subpart sets out the regulations for Television Band Devices (TVBDs) which are unlicensed intentional radiators operating on available channels in the broadcast television frequency bands at 54–60 MHz, 76–88 MHz, 174–216 MHz, 470–608 MHz and 614–698 MHz bands.

§ 15.703 Definitions.

(a) *Available channel.* A television channel which is not being used by an authorized user at or near the same geographic location as the TVBD and is acceptable for use by an unlicensed device under the provisions of § 15.709. A TVBD determines television channel availability either from the TV bands database or spectrum sensing.

(b) *Client device.* A TVBD operating in client mode.

(c) *Client mode.* An operating mode in which the transmissions of the TVBD, including frequencies of operation, are under control of the master device. A device in client mode is not able to initiate a network.

(d) *Fixed device.* A TVBD that transmits and/or receives radiocommunication signals at a specified fixed location. Fixed TVBDs may operate as part of a system, transmitting to one or more fixed TVBDs or to personal/portable TVBDs.

(e) *Geo-location.* The capability of a TVBD to determine its geographic coordinates within a specified level of accuracy.

(f) *Master device.* A TVBD operating in master mode.

(g) *Master mode.* An operating mode in which the TVBD has the capability to transmit without receiving an enabling signal. The TVBD is able to select a channel itself based on a list provided by the database and initiate a network by sending enabling signals to other devices. A network always has at least one device operating in master mode.

(h) *Mode I operation.* Operation of a personal/portable TVBD operating only on the available channel identified by either the fixed TVBD or Mode II TVBD that enables its operation. Mode I operation does not require use of a geo-location capability or access to the TV bands database and requires operation in client mode.

(i) *Mode II operation.* Operation of a personal/portable TVBD whereby the device determines the available channels at its location using its own geo-location and TV bands database access capabilities. Devices operating in Mode II may function as master devices.

(j) *Network initiation.* The process by which a fixed or Mode II TVBD sends control signals to another similar device or to a client device(s) and allows them to begin transmissions.

(k) *Operating channel.* An available channel used by a TVBD for transmission and/or reception.

(l) *Personal/portable device.* A TVBD that transmits and/or receives radiocommunication signals while in motion or at unspecified locations that may change.

(m) *Receive site.* The location where the signal of a full service station is received for rebroadcast by a television translator or low power TV, including Class A TV, station.

(n) *Spectrum sensing.* A process whereby a TVBD monitors a television channel to detect whether the channel is occupied by a radio signal.

(o) *Television band device (TVBD).* Intentional radiators operating on available channels in the broadcast television frequency bands at 54–60 MHz, 76–88 MHz, 174–216 MHz, 470–608 MHz and 614–698 MHz.

(p) *TV bands database.* A database of authorized services in the TV frequency bands that is used to determine the available channels at a given location for use by TVBDs.

§ 15.705 Cross reference.

(a) The provisions of subparts A, B, and C of this part apply to TVBDs, except where specific provisions are contained in subpart H.

(b) The requirements of subpart H apply only to the radio transmitter contained in the TVBD. Other aspects of the operation of a TVBD may be subject to requirements contained elsewhere in this chapter. In particular, a TVBD that includes a receiver that tunes within the frequency range specified in § 15.101(b) contains digital circuitry not directly associated with the radio transmitter is also subject to the requirements for unintentional radiators in subpart B.

§ 15.706 Information to the user.

(a) For TV band device, the instructions furnished the user shall include the following or similar statement, placed in a prominent location in the text of the manual:

> This equipment has been tested and found to comply with the rules for TV band devices, pursuant to part 15 of the FCC rules. These rules are designed to provide reasonable protection against harmful interference. This equipment generates uses and can radiate radio frequency energy and, if not installed and used in accordance with the instructions, may cause harmful interference to radio communications. However, there is no guarantee that interference will not occur in a particular installation. If this equipment does cause harmful interference to radio or television reception, which can be determined by turning the equipment off and on, the user is encouraged to try to correct the interference by one or more of the following measures:
>
> 1. Reorient or relocate the receiving antenna.
> 2. Increase the separation between the equipment and receiver.
> 3. Connect the equipment into an outlet on a circuit different from that to which the receiver is connected.
> 4. Consult the manufacturer, dealer or an experienced radio/TV technician for help.

(b) In cases where the manual is provided only in a form other than paper, such as on a computer disk or over the Internet, the information required by this section may be included in the manual in that alternative form, provided the user can reasonably be expected to have the capability to access information in that form.

§ 15.707 Permissible channels of operation.

(a) All TVBDs are permitted to operate in the frequency bands 512–608 MHz and 614–698 MHz, except that in the 13

metropolitan areas listed § 90.303(a) of this chapter and nearby areas where private land mobile services and commercial land mobile services are authorized by waiver, operation of TVBDs is prohibited on the first channel on each side of TV channel 37 (608–614 MHz) that is available at all locations within the protection range of the coordinates of each such area as set forth in § 15.712(d). These channels will be listed in the TV bands database.

(b) Operation in the bands 54–60 MHz, 76–88 MHz, 174–216 MHz, and 470–512 MHz is permitted only for fixed TVBDs that communicate only with other fixed TVBDs.

(c) Fixed and Mode II TVBDs shall only operate on available channels as determined by the TV bands database and in accordance with the interference avoidance mechanisms of § 15.711.

(d) Mode I TVBDs shall only operate on available channels provided to it from a Fixed or Mode II TVBD.

§ 15.709 General technical requirements.

(a) *Power limits for TVBDs are as follows:* (1) For fixed TVBDs, the maximum conducted output power over the TV channel of operation shall not exceed one watt. Transmitter power will be measured at the antenna input to account for any cable losses between the transmitter and the antenna. If transmitting antennas of directional gain greater than 6 dBi are used, the maximum conducted output power shall be reduced by the amount in dB that the directional gain of the antenna exceeds 6 dBi.

(2) For personal/portable TVBDs, the maximum conducted output power over the TV channel of operation shall not exceed 100 milliwatts; except that for personal/portable TVBDs that do not meet the adjacent channel separation requirements in § 15.712(a), the maximum conducted output power shall not exceed 40 milliwatts. If transmitting antennas of directional gain greater than 0 dBi are used, the maximum conducted output power shall be reduced by the amount in dB that the directional gain of the antenna exceeds 0 dBi.

(3) TVBDs shall incorporate transmit power control to limit their operating power to the minimum necessary for successful communication. Applicants for certification shall include a description of a device's transmit power control feature mechanism.

(4) Maximum conducted output power is the total transmit power in the entire emission bandwidth delivered to all antennas and antenna elements averaged across all symbols in the signaling alphabet when the transmitter is operating at its maximum power control level. Power must be summed across all antennas and antenna elements. The average must not include any time intervals during which the transmitter is off or is transmitting at a reduced power level. If multiple modes of operation are possible (*e.g.*, alternative modulation methods), the maximum conducted output power is the highest total transmit power occurring in any mode.

(b) *Antenna requirements.* (1) For personal/portable TVBDs, the antenna shall be permanently attached.

(2) The receive antenna used with fixed devices shall be located outdoors at least 10 meters above the ground. The antenna system shall be capable of receiving signals of protected services equally in all directions. The transmit antenna used with fixed devices may not be more than 30 meters above the ground.

(3) For both fixed and personal/portable TVBDs, the provisions of § 15.204(c)(4) do not apply to an antenna used for transmission and reception/spectrum sensing.

(4) For both fixed and personal/portable TVBDs with a separate sensing antenna, compliance testing shall be performed using the lowest gain antenna for each type of antenna to be certified.

(c) Undesirable emission limits for TVBDs are as follows:

(1) In the 6 MHz channels adjacent to the operating channel, emissions from TVBD devices shall be at least 55 dB below the highest average power in the band in which the device is operating.

(2) The above emission measurements shall be performed using a minimum resolution bandwidth of 100 kHz with an average detector. A narrower resolution bandwidth may be employed near the band edge, when necessary, provided the measured energy is integrated to show the total power over 100 kHz.

(3) At frequencies beyond 6 MHz from the edge of the operating channel, radiated emissions from TVBD devices shall meet the requirements of § 15.209.

(4) Emissions in the band 602–620 MHz must also comply with the following field strength limits at a distance of one meter.

Frequency (MHz)	Field strength dBμV/meter/120 kHz
602–607	120–5[F(MHz)–602]
607–608	95
608–614	30
614–615	95
615–620	120–5[620–F(MHz)]

(5) TVBDs connected to the AC power line are required to comply with the conducted limits set forth in § 15.207.

(d) Compliance with radio frequency exposure requirements. To ensure compliance with the Commission's radio frequency exposure requirements in §§ 1.1307(b), 2.1091 and 2.1093 of this chapter, fixed TVBDs shall be accompanied by instructions on measures to take to ensure that persons maintain a distance of at least 40 cm from the device, as well as any necessary hardware that may be needed to implement that protection. These instructions shall be submitted with the application for certification. Personal/portable TVBDs that meet the definition of portable devices under § 2.1093 of this chapter and that operate with a source-based time-averaged output of less than 20 mW will not be subject to routine evaluation for compliance with the radio frequency exposure guidelines, while devices that operate with a source-based time-average output power greater than 20 mW will be subject to the routine evaluation requirements.

§ 15.711 Interference avoidance mechanisms.

(a) Except as provided in § 15.717, television channel availability for a TVBD is determined based on either the geo-location and database access mechanism described in paragraph (b) of this section or spectrum sensing described in paragraph (c) of this section.

(1) A TVBD shall rely on the geo-location and database access mechanism to identify available television channels consistent with the interference protection requirements of § 15.712. Such protection will be provided for the following authorized services: digital television stations, digital and analog Class A, low power, translator and booster stations; translator receive operations; fixed broadcast auxiliary service links; private land mobile service/commercial radio service (PLMRS/CMRS) operations; offshore radiotelephone service; and cable system head-ends. In addition, protection shall be provided in border areas near Canada and Mexico in accordance with § 15.712(g).

(2) For low power auxiliary services authorized pursuant to §§ 74.801 through 74.882 of this chapter, including wireless microphones, a TVBD shall rely on the geo-location and database access mechanism to identify available television channels to provide interference protection to registered locations of such operations, consistent with the requirements of § 15.712, and

shall rely on spectrum sensing to identify available television channels to provide interference protection to all other operations.

(b) *Geo-location and database access.* (1) The geographic coordinates of a fixed TVBD shall be determined to an accuracy of +/−50 meters by either an incorporated geo-location capability or a professional installer. In the case of professional installation, the party who registers the fixed TVBD in the database will be responsible for assuring the accuracy of the entered coordinates. The geographic coordinates of a fixed TVBD shall be determined at the time of installation and first activation from a power-off condition, and this information may be stored internally in the TVBD. If the fixed TVBD is moved to another location or if the stored coordinates become altered, the operator shall re-establish the device's:

(i) Geographic location and store this information in the TVBD either by means of the device's incorporated geo-location capability or through the services of a professional installer; and

(ii) Registration with the database based on the device's new coordinates.

(2) A Mode II personal/portable device shall incorporate a geo-location capability to determine its geographic coordinates to an accuracy of +/−50 meters. The device must re-establish its position each time it is activated from a power-off condition.

(3)(i) Fixed devices must access a TV bands database over the Internet to determine the TV channels that are available at their geographic coordinates prior to their initial service transmission at a given location. Operation is permitted only on channels that are indicated in the database as being available for TVBDs. Fixed TVBDS shall access the database at least once a day to verify that the operating channels continue to remain available. Operation must cease immediately if the channel is no longer available.

(ii) Mode II personal/portable devices must access a TV bands database over the Internet to determine the TV channels that are available at their geographic coordinates prior to their initial service transmission at a given location. Operation is permitted only on channels that are indicated in the database as being available for TVBDs. A Mode II personal/portable device must access the database for a list of available channels each time it is activated from a power-off condition and re-check its location and the database for available channels if it changes location during operation. A Mode II personal/portable device that has been in a powered state shall re-check its location and access the database daily to verify that the operating channel(s) continue to be available.

(iii) If a fixed or mode II TVBD fails to contact the TV bands database during any given day, it may continue to operate until 11:59 PM of the following day at which time it must cease operations unless it has contacted the TV bands database during the intervening period.

(iv) Personal/portable devices operating in Mode I shall obtain a list of channels on which they may operate from a master device.

(4) All geographic coordinates shall be referenced to the North American Datum of 1983 (NAD 83).

(c) Spectrum sensing.

(1) Detection threshold.

(i) All fixed and personal/portable TVBDs must be capable of detecting ATSC digital TV, NTSC analog TV and wireless microphone signals using analog or digital modulation methods. The required detection thresholds are.

(A) ATSC signals: −114 dBm, averaged over a 6 MHz bandwidth;

(B) NTSC signals: −114 dBm, averaged over a 100 kHz bandwidth;

(C) Wireless microphone signals: −114 dBm, averaged over a 200 kHz bandwidth. (ii) The detection thresholds are referenced to an omnidirectional receive antenna with a gain of 0 dBi. If a receive antenna with a minimum directional gain of less than 0 dBi is used, the detection threshold shall be reduced by the amount in dB that the minimum directional gain of the antenna is less than 0 dBi. Minimum directional gain shall be defined as the antenna gain in the direction and at the frequency that exhibits the least gain. Alternative approaches for the sensing antenna are permitted, *e.g.*, electronically rotateable antennas, provided the applicant for equipment authorization can demonstrate that its sensing antenna provides at least the same performance as an omnidirectional antenna with 0 dBi gain.

(2) Low power auxiliary device channel availability check time. A TVBD may start operating on a TV channel if no wireless microphone or other low power auxiliary device signals above the detection threshold are detected within a minimum time interval of 30 seconds.

(3) TV channel availability check time. A TVBD is required to check for TV signals for a minimum time interval of 30 seconds. If a TV signal is detected on a channel indicated as available for use by the database system, the device will provide a notice of that detection to the operator of the device and a means for the operator to optionally remove the channel from the device's list of available channels.

(4) In-service monitoring. A TVBD must perform in-service monitoring of an operating channel a minimum of once every 60 seconds. There is no minimum channel availability check time for in-service monitoring.

(5) Channel move time. After a wireless microphone or other low power auxiliary device signal is detected on a TVBD operating channel, all transmissions by the TVBD must cease within two seconds.

(6) Personal/portable devices operating in the client mode shall identify to the fixed or Mode II personal/portable device those television channels on which it senses any signals above the detection threshold. The fixed or Mode II device shall respond in accordance with the provisions of this paragraph as if it had detected the signal itself.

(7) TVBDs communicating either directly with one another or linked through a base station must share information on channel occupancy determined by sensing. If any device in a local area group or network determines that a channel is occupied, all other linked devices will also be required to respond in accordance with the provisions of this paragraph as if it had detected the signal itself.

(d) A TVBD must incorporate the capability to display a list of identified available channels and its operating channels.

(e) Fixed TVBDs shall transmit identifying information. The identification signal must conform to a standard established by a recognized industry standards setting organization. The identification signal shall carry sufficient information to identify the device and its geographic coordinates.

(f) If a fixed TVBD device does not have a direct connection to the Internet and has not yet been initialized and registered with the TV bands database, consistent with § 15.713, but can receive the transmissions of another fixed TVBD, the device needing initialization may transmit to that other device on either a channel that the other TVBD has transmitted on or on a channel which the other TVBD indicates is available for use to access the database to register its location and receive a list of channels that are available for it to use. Subsequently, the newly registered TVBD must only use the television channels that the database indicates are available for it to use. Such fixed devices must re-contact the database through another fixed device to review their list of available channels at least

once every 60 seconds. A fixed device may not operate as a client to another fixed device.

(g) A personal/portable TVBD operating in Mode I may only transmit upon receiving the transmissions of fixed or Mode II TVBD. A personal/portable device operating in Mode I may transmit on either an operating channel of the fixed or Mode II TVBD or on a channel the fixed or Mode II TVBD indicates is available for use.

§ 15.712 Interference protection requirements.

(a) Digital television stations, and digital and analog Class A TV, low power TV, TV translator and TV booster stations:

(1) *Protected contour.* TVBDs must protect digital and analog TV services within the contours shown in the following table. The contours are based on the R–6602 curves contained in § 73.699 of this chapter.

Type of station	Protected contour		
	Channel	Contour (dBu)	Propagation curve
Analog: Class A TV, LPTV, translator and booster	Low VHF (2–6)	47	F(50,50)
	High VHF (7–13)	56	F(50,50)
	UHF (14–69)	64	F(50,50)
Digital: Full service TV, Class A TV, LPTV, translator and booster	Low VHF (2–6)	28	F(50,90)
	High VHF (7–13)	36	F(50,90)
	UHF (14–51)	41	F(50,90)

(2) *Required separation distance.* Fixed TVBDs and personal/portable TVBDs operating in Mode II must be located outside the contours indicated in paragraph (a)(1) of this section of co-channel and adjacent channel stations by at least the minimum distances specified in the following table. Personal/portable TVBDs operating in Mode II must comply with the separation distances specified for an unlicensed device with an antenna height of less than 3 meters. Alternatively, Mode II personal/portable TVBDs may operate at closer separation distances, including inside the contour of adjacent channel stations, provided the power level is reduced as specified in § 15.709(a)(2).

Antenna height of unlicensed device	Required separation (km) from digital or analog TV (full service or low power) protected contour	
	Co-channel (km)	Adjacent channel (km)
Less than 3 meters	6.0	0.1
3–Less than 10 meters	8.0	0.1
10–30 meters	14.4	0.74

(b) *Translator receive sites and cable headends.* For translator receive sites and cable headends registered in the TV bands database, TVBDs may not operate within an arc of +/ − 30 degrees from a line between the registered translator or cable headend receive site and the TV station being received within a distance of 80 km from the protected contour for co-channel operation and 20 km from the protected contour for adjacent channel operation. Outside of this +/ − 30 degree arc, TVBDs may not operate within 8 km from the receive site for co-channel operation and 2 km from the receive site for adjacent channel operation.

(c) *Fixed Broadcast Auxiliary Service (BAS) Links.* For permanent BAS receive sites appearing in the Commission's Universal Licensing System or temporary BAS receive sites registered in the TV bands database, TVBDs may not operate within an arc of +/ − 30 degrees from a line between the BAS receive site and its associated permanent transmitter within a distance of 80 km from the receive site for co-channel operation and 20 km for adjacent channel operation. Outside this +/ − 30 degree arc, TVBDs may not operate within 8 km from the receive site for co-channel operation and 2 km from the receive site for adjacent channel operation.

(d) *PLMRS/CMRS operations.* TVBDs may not operate at distances less than 134 km for co-channel operations and 131 km for adjacent channel operations from the coordinates of the metropolitan areas and on the channels listed in § 90.303(a) of this chapter. For PLMRS/CMRS operations outside of the metropolitan areas listed in § 90.303(a) of this chapter, co-channel and adjacent channel TVBDs may not operate closer than 54 km and 51 km, respectively from a base station.

(e) *Offshore Radiotelephone Service.* TVBDs may not operate on channels used by the Offshore Radio Service within the geographic areas specified in § 74.709(e) of this chapter.

(f) *Low power auxiliary services, including wireless microphones.* (1) TVBDs will not be permitted to operate within 1 km of the coordinates of registered wireless microphone sites during designated times on the channels used by wireless microphones.

(2) In the 13 metropolitan areas listed in § 90.303(a) of this chapter and nearby areas where private land mobile services and commercial land mobile services are authorized by waiver, operation of TVBDs will not be permitted to operate on the first channel on each side of TV channel 37 (608–614 MHz) that is available, i.e., not occupied by a licensed service, at all locations within the protection range of the coordinates of each such area as set forth in § 15.712(d).

(g) *Border areas near Canada and Mexico.* (1) Fixed and personal/portable TVBDs shall not operate within 32 kilometers of the Canadian Border.

(2) Fixed and personal/portable TVBDs shall not operate within 40 kilometers of the Mexican border on

UHF channels, or within 60 kilometers of that border on VHF channels.

(h) *Radio astronomy services.* Operation of fixed and personal/portable TVBDs is prohibited on all channels within 2.4 kilometers at the following locations.

(1) The Naval Radio Research Observatory in Sugar Grove, West Virginia.

(2) The Table Mountain Radio Receiving Zone (TMRZ) at 40°07′50″ N and 105°15′40″ W.

(3) The following facilities.

Observatory	Longitude (deg/min/sec)	Latitude (deg/min/sec)
Allen Telescope Array	121°28′24″ W	40°49′04″ N.
Arecibo Observatory	066°45′11″ W	18°20′46″ N.
Green Bank Telescope (GBT)	079°50′24″ W	38°25′59″ N.
Very Large Array (VLA)	107°37′04″ W	34°04′44″ N.
Very Long Baseline Array (VLBA) Stations:		
Pie Town, AZ	108°07′07″ W	34°18′04″ N.
Kitt Peak, AZ	111°36′42″ W	31°57′22″ N.
Los Alamos, NM	106°14′42″ W	35°46′30″ N.
Ft. Davis, TX	103°56′39″ W	30°38′06″ N.
N. Liberty, IA	091°34′26″ W	41°46′17″ N.
Brewster, WA	119°40′55″ W	48°07′53″ N.
Owens Valley, CA	118°16′34″ W	37°13′54″ N.
St. Croix, VI	064°35′03″ W	17°45′31″ N.
Hancock, NH	071°59′12″ W	42°56′01″ N.
Mauna Kea, HI	155°27′29″ W	19°48′16″ N.

§ 15.713 TV bands database.

(a) *Purpose.* The TV bands database serves the following functions:

(1) To determine and provide to a TVBD, upon request, the available TV channels at the TVBD's location. Available channels are determined based on the interference protection requirements in § 15.712.

(2) To register the identification information and location of fixed TVBDs.

(3) To register protected locations and channels as specified in paragraph (b)(2) of this section, that are not otherwise recorded in Commission licensing databases.

(b) Information in the TV bands database. (1) Facilities already recorded in Commission databases. Identifying and location information will come from the official Commission database. These services include:

(i) Digital television stations.

(ii) Class A television stations.

(iii) Low power television stations.

(iv) Television translator and booster stations.

(v) Broadcast Auxiliary Service stations (including receive only sites), except low power auxiliary stations.

(vi) Private land mobile radio service stations.

(vii) Commercial mobile radio service stations.

(viii) Offshore radiotelephone service stations.

(2) Facilities that are not recorded in Commission databases. Identifying and location information will be entered into the TV bands database in accordance with the procedures established by the TV bands database administrator(s). These include:

(i) Cable television headends.

(ii) Class A television station receive sites.

(iii) Low power television station receive sites.

(iv) Television translator station receive sites.

(v) Sites where low power auxiliary stations, including wireless microphones and wireless assist video devices, are used and their schedule for operation.

(vi) Fixed TVBD registrations.

(c) *Restrictions on registration.* (1) Television translator, low power TV and Class A station receive sites within the protected contour of the station being received are not eligible for registration in the database.

(2) Cable television headends within the protected contour of a television channel are not eligible to register that channel in the database.

(d) *Determination of available channels.* The TV bands database will determine the available channels at a location using the interference protection requirements of § 15.712, the location information supplied by a TVBD, and the data for protected stations/locations in the database. The TV bands database will also check for proximity of a TVBD to the Canadian and Mexican borders where operation may be prohibited pursuant to § 15.712(g).

(e) *TVBD initialization.* (1) Fixed and Mode II TVBDs must provide their location and required identifying information to the TV bands database in accordance with the provisions of paragraph (b) of this section.

(2) Fixed and Mode II TVBDs shall not transmit unless they receive, from the TV bands database, a list of available channels.

(3) Fixed TVBDs register and receive a list of available channels from the database by connecting to the Internet, either directly or through another fixed TVBD.

(4) Mode II TVBDs register and receive a list of available channels from the database by connecting to the Internet, either directly or through a fixed TVBD.

(f) *Fixed TVBD registration.* (1) Prior to operating for the first time or after changing location, a fixed TVBD must register with the TV bands database by providing the information listed in paragraph (f)(3) of this section.

(2) The party responsible for a fixed TVBD must ensure that the TVBD registration database has the most current, up-to-date information for that device.

(3) The TVBD registration database shall contain the following information for fixed TVBDs:

(i) FCC identifier (FCC ID) of the device.

(ii) Manufacturer's serial number of the device.

(iii) Device's geographic coordinates (latitude and longitude (NAD 83) accurate to +/− 50 m).

(iv) Name of the individual or business that is responsible for the device.

(v) Name of a contact person responsible for the device's operation.

(vi) Address for the contact person.

(vii) E-mail address for the contact person.

(viii) Phone number for the contact person.

(g) A personal/portable device operating in Mode II shall provide the

database its FCC Identifier (as required by § 2.926 of this chapter), serial number as assigned by the manufacturer, and the device's geographic coordinates (latitude and longitude (NAD 83) accurate to ±50 m)

(h) The TV bands database shall contain the listed information for each of the following:

(1) Digital television stations, digital and analog Class A, low power, translator and booster stations:

(i) Transmitter coordinates (latitude and longitude in NAD 83).

(ii) Effective radiated power (ERP).

(iii) Height above average terrain of the transmitting antenna (HAAT).

(iv) Horizontal transmit antenna pattern (if the antenna is directional).

(v) Channel number.

(vi) Station call sign.

(2) Broadcast Auxiliary Service.

(i) Transmitter coordinates (latitude and longitude in NAD 83).

(ii) Receiver coordinates (latitude and longitude in NAD 83).

(iii) Channel number.

(iv) Call sign.

(3) Metropolitan areas listed in § 90.303(a) of this chapter.

(i) Region name.

(ii) Channel(s) reserved for use in the region.

(iii) Geographic center of the region (latitude and longitude in NAD 83).

(iv) Call sign.

(4) PLMRS/CMRS base station operations located more than 80 km from the geographic centers of the 13 metropolitan areas defined in § 90.303(a) of this chapter (*e.g.*, in accordance with a waiver).

(i) Transmitter location (latitude and longitude in NAD 83) or geographic area of operations.

(ii) Effective radiated power.

(iii) Transmitter height above average terrain (if specified).

(iv) Antenna height above ground level (if specified).

(v) Call sign.

(5) Offshore Radiotelephone Service. For each of the four regions where the Offshore Radiotelephone Service operates.

(i) Geographic boundaries of the region (latitude and longitude in NAD 83 for each point defining the boundary of the region.

(ii) Channel(s) used by the service in that region.

(6) Cable Television headends.

(i) Name and address of cable company.

(ii) Location of the headend receiver (latitude and longitude in NAD 83, accurate to +/−50 m).

(iii) Channel number of each television channel received, subject to the following condition: channels for which the cable headend is located within the protected contour of that channel's transmitting station are not eligible for registration in the database.

(iv) Call sign of each television channel received and eligible for registration.

(v) Location (latitude and longitude) of the transmitter of each television channel received.

(7) Television translator, low power TV and Class A TV station receive sites.

(i) Call sign of the TV translator station.

(ii) Location of the TV translator receive site (latitude and longitude in NAD 83, accurate to +/−50 m).

(iii) Channel number of the re-transmitted television station, subject to the following condition: a channel for which the television translator receive site is located within the protected contour of that channel's transmitting station is not eligible for registration in the database.

(iv) Call sign of the retransmitted television station.

(v) Location (latitude and longitude) of the transmitter of the retransmitted television station.

(8) Low power auxiliary stations, including wireless microphones and wireless assist video devices. Sites with significant wireless microphone use at well defined times and locations may be registered in the database. Multiple registrations that specify more than one point in the facility may be entered for very large sites. Registrations will be valid for no more than one year, after which they may be renewed.

(i) Name of the individual or business that owns the low power auxiliary device(s).

(ii) An address for the contact person.

(iii) An e-mail address for the contact person (optional).

(iv) A phone number for the contact person.

(v) Coordinates where the device(s) are used (latitude and longitude in NAD 83, accurate to +/−50 m).

(vi) Channels used by the low power auxiliary devices operated at the site.

(vii) Specific months, days and times when the device(s) are used.

(i) Commission requests for data. (1) A TV bands database administrator must provide to the Commission, upon request, any information contained in the database.

(2) A TV bands database administrator must remove information from the database, upon direction, in writing, by the Commission.

§ 15.714 TV bands database administration fees.

(a) A TV bands database administrator may charge a fee for provision of lists of available channels to fixed and personal/portable TVBDs and for registering fixed TVBDs and temporary BAS links.

(b) The Commission, upon request, will review the fees and can require changes in those fees if they are found to be excessive.

§ 15.715 TV bands database administrator.

The Commission will designate one or more entities to administer a TV bands database. Each database administrator shall:

(a) Maintain a database that contains the information described in § 15.713.

(b) Establish a process for acquiring and storing in the database necessary and appropriate information from the Commission's databases and synchronizing the database with the current Commission databases at least once a week to include newly licensed facilities or any changes to licensed facilities.

(c) Establish a process for registering fixed TVBDs and registering and including in the database facilities entitled to protection but not contained in a Commission database, including cable headends and TV translator receiver sites.

(d) Establish a process for registering facilities where part 74 low power auxiliary devices are used on a regular basis.

(e) Provide lists of available channels to fixed and personal/portable TVBDs that submit to it the information required under § 15.713(f) based on their geographic location.

(f) Make its services available to all unlicensed TV band device users on a non-discriminatory basis.

(g) Provide service for a five-year term. This term can be renewed at the Commission's discretion.

(h) Respond in a timely manner to verify, correct and/or remove, as appropriate, data in the event that the Commission or a party brings claim of inaccuracies in the database to its attention.

(i) Transfer its database along with the IP addresses and URLs used to access the database and list of registered Fixed TVBDs, to another designated entity in the event it does not continue as the database administrator at the end of its term. It may charge a reasonable price for such conveyance.

(j) The database must have functionality such that upon request from the Commission it can indicate that no channels are available when

queried by a specific TVBD or model of TVBDs.

(k) If more than one database is developed, the database administrators shall cooperate to develop a standardized process for providing on a daily basis or more often, as appropriate, the data collected for the facilities listed in § 15.713(b)(2) to all other TV bands databases to ensure consistency in the records of protected facilities.

§ 15.717 TVBDs that rely on spectrum sensing.

(a) Parties may submit applications for certification of TVBDs that rely solely on spectrum sensing to identify available channels. Devices authorized under this section must demonstrate with an extremely high degree of confidence that they will not cause harmful interference to incumbent radio services.

(1) In addition to the procedures in subpart J of part 2 of this chapter, applicants shall comply with the following.

(i) The application must include a full explanation of how the device will protect incumbent authorized services against interference.

(ii) Applicants must submit a pre-production device, identical to the device expected to be marketed.

(2) The Commission will follow the procedures below for processing applications pursuant to this section.

(i) Applications will be placed on public notice for a minimum of 30 days for comments and 15 days for reply comments. Applicants may request that portions of their application remain confidential in accordance with § 0.459 of this chapter. This public notice will include proposed test procedures and methodologies.

(ii) The Commission will conduct laboratory and field tests of the pre-production device. This testing will be conducted to evaluate proof of performance of the device, including characterization of its sensing capability and its interference potential. The testing will be open to the public.

(iii) Subsequent to the completion of testing, the Commission will issue by public notice, a test report including recommendations. The public notice will specify a minimum of 30 days for comments and, if any objections are received, an additional 15 days for reply comments.

(b) The device shall meet the requirements for personal/portable devices in this subpart except that it will be limited to a maximum EIRP of 50 mw and it does not have to comply with the requirements for geo-location and database access in § 15.711(b). Compliance with the detection threshold for spectrum sensing in § 15.711(c), although required, is not necessarily sufficient for demonstrating reliable interference avoidance. Once a device is certified, additional devices that are identical in electrical characteristics and antenna systems may be certified under the procedures of part 2, subpart J of this chapter.

[FR Doc. E9–3279 Filed 2–13–09; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 071106673–8011–02]

RIN 0648–XN00

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Less Than 60 feet (18.3 m) Length Overall Using Jig or Hook-and-Line Gear in the Bogoslof Pacific Cod Exemption Area in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 m) length overall (LOA) using jig or hook-and-line gear in the Bogoslof Pacific cod exemption area of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the limit of Pacific cod for catcher vessels <60 ft LOA using jig or hook-and-line gear in the Bogoslof Pacific cod exemption area in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 13, 2009, through 2400 hrs, A.l.t., December 31, 2009.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.22(a)(7)(i)(C), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that 113 metric tons of Pacific cod have been caught by catcher vessels <60 ft LOA using jig or hook-and-line gear in the Bogoslof exemption area described at § 679.22(a)(7)(i)(C)(1). Consequently, the Regional Administrator is prohibiting directed fishing for Pacific cod by catcher vessels < 60 ft (18.3 m) LOA using jig or hook-and-line gear in the Bogoslof Pacific cod exemption area.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific cod by catcher vessels <60 ft LOA using jig or hook-and-line gear in the Bogoslof Pacific cod exemption area. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of February 10, 2009.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.22 and is exempt from review under Executive Order 12866.

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

Dated: February 11, 2009.

Emily H. Menashes,

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

[FR Doc. E9–3290 Filed 2–11–09; 4:15 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0910091344–9056–02]

RIN 0648–XL23

Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; 2009 and 2010 Final Harvest Specifications for Groundfish

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

ACTION: Final rule; closures.

SUMMARY: NMFS announces 2009 and 2010 final harvest specifications, reserves and apportionments thereof, Pacific halibut prohibited species catch (PSC) limits, and associated management measures for the groundfish fishery of the Gulf of Alaska (GOA). This action is necessary to establish harvest limits and associated management measures for groundfish during the 2009 and 2010 fishing years and to accomplish the goals and objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). The intended effect of this action is to conserve and manage the groundfish resources in the GOA in accordance with the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: Effective at 1200 hrs, Alaska local time (A.l.t.), February 17, 2009, through 2400 hrs, A.l.t., December 31, 2010.

ADDRESSES: Copies of the Supplementary Information Report (SIR) to the Alaska Groundfish Harvest Specifications Final Environmental Impact Statement (Final EIS), Record of Decision (ROD), and Final Regulatory Flexibility Analysis (FRFA) prepared for this action are available from the Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Sebastian, or from the Alaska Region Web site at *http://www.alaskafisheries.noaa.gov.* Copies of the final 2008 Stock Assessment and Fishery Evaluation (SAFE) report for the groundfish resources of the GOA, dated November 2008, are available from the North Pacific Fishery Management Council (Council), 605 West 4th Avenue, Suite 306, Anchorage, AK 99510–2252, phone 907–271–2809, or from its Web site at *http://www.alaskafisheries.noaa.gov/npfmc.*

FOR FURTHER INFORMATION CONTACT: Tom Pearson, Sustainable Fisheries Division, Alaska Region, 907–481–1780, or e-mail at *tom.pearson@noaa.gov.*

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone (EEZ) of the GOA under the FMP. The Council prepared the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMP appear at 50 CFR parts 600, 679, and 680.

The FMP and its implementing regulations require NMFS, after consultation with the Council, to specify and apportion the total allowable catch (TAC) for each target species and for the ''other species'' category, and the sum of which must be within the optimum yield (OY) range of 116,000 to 800,000 metric tons (mt). The final specifications set forth in Tables 1 through 27 of this document satisfy this requirement. For 2009, the sum of the TAC amounts is 242,727 mt. For 2010, the sum of the TAC amounts is 284,688 mt.

50 CFR 679.20(c)(1) further requires NMFS to publish and solicit public comment on proposed annual TACs, halibut PSC amounts, and seasonal allowances of pollock and inshore/offshore Pacific cod. The proposed GOA groundfish specifications and Pacific halibut PSC allowances for 2009 and 2010 were published in the **Federal Register** on December 2, 2008 (73 FR 73222). Comments were invited and accepted through January 2, 2009. NMFS received one letter of comment on the proposed specifications. This letter of comment is summarized in the Response to Comments section of this action. In December 2008, NMFS consulted with the Council regarding the 2009 and 2010 harvest specifications. After considering public comments received, as well as biological and economic data that were available at the Council's December 2008 meeting, NMFS is implementing the 2009 and 2010 final harvest specifications, as recommended by the Council.

Acceptable Biological Catch (ABC) and TAC Specifications

In December 2008, the Council, its Advisory Panel (AP), and its Scientific and Statistical Committee (SSC), reviewed current biological and harvest information about the condition of groundfish stocks in the GOA. This information was compiled by the Council's GOA Plan Team and was presented in the final 2008 SAFE report for the GOA groundfish fisheries, dated November 2008 (see **ADDRESSES**). The SAFE report contains a review of the latest scientific analyses and estimates of each species' biomass and other biological parameters, as well as summaries of the available information on the GOA ecosystem and the economic condition of the groundfish fisheries off Alaska. From these data and analyses, the Plan Team estimates an ABC for each species or species category.

The final ABC levels are based on the best available biological and socioeconomic information, including projected biomass trends, information on assumed distribution of stock biomass, and revised methods used to calculate stock biomass. The FMP specifies the formulas, or tiers, to be used to compute ABCs and overfishing levels (OFLs). The formulas applicable to a particular stock or stock complex are determined by the level of reliable information available to fisheries scientists. This information is categorized into a successive series of six tiers with tier one representing the highest level of information quality available and tier six the lowest level of information quality available.

The final TAC recommendations were based on the ABCs as adjusted for other biological and socioeconomic considerations, including maintaining the sum of all TACs within the required OY range of 116,000 to 800,000 mt. The Council adopted the AP's TAC recommendations. The Council recommended TACs for 2009 and 2010 that are equal to ABCs for pollock, deep-water flatfish, rex sole, sablefish, Pacific ocean perch, shortraker rockfish, rougheye rockfish, northern rockfish, pelagic shelf rockfish, thornyhead rockfish, demersal shelf rockfish, big skate, longnose skate, and other skates. The Council recommended TACs for 2009 and 2010 that are less than the ABCs for Pacific cod, flathead sole, shallow-water flatfish, arrowtooth flounder, other rockfish, Atka mackerel, and ''other species.'' None of the Council's recommended TACs for 2009 and 2010 exceeds the final ABC for any species or species category. The 2009 and 2010 harvest specifications approved by the Secretary of Commerce (Secretary) are unchanged from those recommended by the Council and are consistent with the preferred harvest strategy alternative in the Final EIS. NMFS finds that the Council's recommended ABCs, OFLs, and TACs are consistent with the biological condition of the groundfish stocks as described in the 2008 SAFE report and

approved by the Council. NMFS also finds that the Council's recommendations for OFL, ABC, and TAC amounts are consistent with the biological condition of groundfish stocks as adjusted for other biological and socioeconomic considerations, including maintaining the total TAC within the OY range. NMFS reviewed the Council's recommended TAC specifications and apportionments and approves these specifications under 50 CFR 679.20(c)(3)(ii). The apportionment of TAC amounts among gear types, processing sectors, and seasons is discussed below.

Tables 1 and 2 list the final 2009 and 2010 OFLs, ABCs, TACs, and area apportionments of groundfish in the GOA. The sums of the 2009 and 2010 ABCs are 516,055 mt and 562,762 mt, respectively, which are lower in 2009 and higher in 2010 than the 2008 ABC sum of 536,201 mt (73 FR 10562, February 27, 2008).

Specification and Apportionment of TAC Amounts

As in 2008, the SSC and Council recommended that the method of apportioning the sablefish ABC among management areas in 2009 and 2010 include commercial fishery and survey data. NMFS stock assessment scientists believe the use of unbiased commercial fishery data reflecting catch-per-unit-effort provides a desirable input for stock distribution assessments. NMFS evaluates the use of commercial fishery data annually to ensure unbiased information is included in stock distribution models. The Council's recommendation for sablefish area apportionments also takes into account the prohibition on the use of trawl gear in the Southeast Outside (SEO) District of the Eastern Regulatory Area and makes available 5 percent of the combined Eastern Regulatory Area ABCs to trawl gear for use as incidental catch in other directed groundfish fisheries in the West Yakutat (WYK) District (§ 679.20(a)(4)(i)).

Since the inception of a State of Alaska (State) managed pollock fishery in Prince William Sound (PWS), the GOA Plan Team has recommended the guideline harvest level (GHL) for the pollock fishery in PWS be deducted from the ABC for the western stock of pollock in the GOA in the Western/Central/West Yakutat (W/C/WYK) Area. For the 2009 and 2010 pollock fisheries in PWS, the State's GHL is 1,650 mt.

The apportionment of annual pollock TAC among the Western and Central Regulatory Areas of the GOA reflects the seasonal biomass distribution and is discussed in greater detail below. The annual pollock TAC in the Western and Central Regulatory Areas of the GOA is apportioned among Statistical Areas 610, 620, and 630, as well as equally among each of the following four seasons: the A season (January 20 through March 10), the B season (March 10 through May 31), the C season (August 25 through October 1), and the D season (October 1 through November 1) (50 CFR 679.23(d)(2)(i) through (iv) and 679.20(a)(5)(iii)(B)).

The SSC, AP, and Council adopted the Plan Team's OFL and ABC recommendations for all groundfish species, complexes, and categories.

The SSC, AP, and Council recommended apportionment of the ABC for Pacific cod in the GOA among regulatory areas based on the three most recent NMFS summer trawl surveys.

The 2009 and 2010 Pacific cod TACs are affected by the State's fishery for Pacific cod in State waters in the Central and Western Regulatory Areas, as well as in PWS. The SSC, AP, and Council recommended that the sum of all State and Federal water Pacific cod removals not exceed the ABC. Accordingly, the Council recommended reducing the 2009 and 2010 Pacific cod TACs from the ABCs in the Central and Western Regulatory Areas to account for State GHLs. Therefore, the 2009 Pacific cod TACs are less than the ABCs by the following amounts: (1) Eastern GOA, 221 mt; (2) Central GOA, 7,880 mt; and (3) Western GOA, 5,392 mt; the 2010 Pacific cod TACs are less than the ABCs by the following amounts: (1) Eastern GOA, 318 mt; (2) Central GOA, 11,329 mt; and (3) Western GOA, 7,751 mt. These amounts reflect the sum of the State's 2009 and 2010 GHLs in these areas, which are 10 percent, 25 percent, and 25 percent of the Eastern, Central, and Western GOA ABCs, respectively. The percentages of the ABCs used to calculate the 2009 and 2010 GHLs for the State managed Pacific cod fisheries are unchanged from 2008.

NMFS also is establishing seasonal apportionments of the annual Pacific cod TAC in the Western and Central Regulatory Areas. Sixty percent of the annual TAC is apportioned to the A season for hook-and-line, pot, and jig gear from January 1 through June 10, and for trawl gear from January 20 through June 10. Forty percent of the annual TAC is apportioned to the B season for hook-and-line, pot, and jig gear from September 1 through December 31, and for trawl gear from September 1 through November 1 (50 CFR 679.23(d)(3) and 679.20(a)(12)).

As in 2008, NMFS establishes for 2009 and 2010 an A season directed fishing allowance (DFA) for the Pacific cod fisheries in the GOA based on the management area TACs minus the recent average A season incidental catch of Pacific cod in each management area before June 10 (§ 679.20(d)(1)). The DFA and incidental catch before June 10 will be managed such that total harvest in the A season will be no more than 60 percent of the annual TAC. Incidental catch taken after June 10 will continue to accrue against the B season TAC. This action meets the intent of the Steller Sea Lion Protection Measures by achieving temporal dispersion of the Pacific cod removals and by reducing the likelihood of harvest exceeding 60 percent of the annual TAC in the A season (January 1 through June 10 for hook-and-line, pot, and jig gear; January 20 through June 10 for trawl gear). The seasonal apportionments of the annual Pacific cod TAC are discussed in greater detail below.

Other Actions Affecting the 2009 and 2010 Harvest Specifications

Amendment 79 to the GOA FMP was approved by the Secretary on August 20, 2008 (73 FR 49963, August 25, 2008). Amendment 79 requires that aggregate OFL, ABC, and TAC levels for the ''other species'' category be established as part of the annual groundfish harvest specification process. Previously only an annual TAC was established. NMFS is implementing an OFL of 8,720 mt and an ABC of 6,540 mt for 2009 and 2010 (see Tables 1 and 2). Stock assessments for the major taxonomic groups which comprise the ''other species'' category (sharks, sculpins, squid, and octopus) are included in 2008 SAFE report.

Following the publication of a proposed rule (73 FR 55010, September 24, 2008) and comment period to implement Amendment 77 to the GOA FMP the Secretary approved Amendment 77 on December 15, 2008 and NMFS published a final rule implementing the amendment on December 31, 2008 (73 FR 80307). Amendment 77 removed dark rockfish from the pelagic shelf rockfish (PSR) complex in the GOA FMP in order to allow the State of Alaska (State) to assume management of dark rockfish beginning in 2009. This action was necessary to allow the State to implement more responsive, regionally-based management measures than are currently possible under the FMP. The effect of removing dark rockfish from the PSR complex is to reduce the OFLs, ABCs, and TACs for the PSR complex in these harvest specifications. Compared to the final 2008 harvest specifications the OFL is reduced from 6,400 mt in 2008 to 5,803 mt in 2009 and to 5,420 mt in 2010. Compared to the final 2008

harvest specifications the ABCs and TACs are reduced from 5,227 mt in 2008 to 4,781 mt in 2009 and to 4,465 mt in 2010 (see Tables 1 and 2). The final 2008 SAFE report accounted for the removal of dark rockfish from the PSR complex. Based on the approval of Amendment 77, the Council recommended final 2009 and 2010 harvest specifications for GOA groundfish.

Changes From the Proposed 2009 and 2010 Harvest Specifications in the GOA

In October 2008, the Council's recommendations for the proposed 2009 and 2010 harvest specifications (73 FR 73222, December 2, 2008) were based largely upon information contained in the final 2007 SAFE report for the GOA groundfish fisheries, dated November 2007 (*see* **ADDRESSES**). The Council recommended that the proposed OFLs, ABCs, and TACs established for the groundfish fisheries in 2009 (73 FR 10562, February 27, 2008 see Table 2) be rolled over to 2009 and 2010, with the exception of sablefish and ''other species'' pending completion and review of the 2008 SAFE report at its December 2008 meeting.

The 2008 SAFE report, which was not available when the Council made its recommendations in October 2008, contains the best and most recent scientific information on the condition of the groundfish stocks. This report was considered in December 2008 by the Council when it made recommendations for the final 2009 and 2010 harvest specifications. Based on the final 2008 SAFE report, the sum of the 2009 final TACs for the GOA (242,727 mt) is 36,537 mt lower than the sum of the proposed 2009 TACs (279,264 mt). The largest 2009 decreases occurred for pollock, from 78,170 mt to 49,900 mt (36 percent decrease); for Pacific cod, from 50,269 mt to 41,807 mt (17 percent decrease); for sablefish, from 11,633 mt to 11,160 mt (4 percent decrease); for pelagic shelf rockfish, from 5,140 mt to 4,781 mt (7 percent decrease); and for demersal shelf rockfish, from 382 mt to 362 mt (5 percent decrease). The largest increases occurred for rex sole, from 8,468 mt to 8,996 mt (6 percent increase) and for Atka mackerel, from 1,500 mt to 2,000 mt (33 percent increase). Other increases or decreases in 2009 are within 2 percent of the proposed specifications.

The sum of the 2010 final TACs for the GOA (284,688 mt) is 5,424 mt higher than the sum of the proposed 2010 TACs (279,264 mt). The largest 2010 decreases occurred for pollock, from 78,170 mt to 74,330 mt (5 percent decrease); for sablefish, from 11,633 mt to 10,337 mt (11 percent decrease), for pelagic shelf rockfish, from 5,140 mt to 4,465 (13 percent decrease); and for demersal shelf rockfish, from 382 mt to 362 mt (5 percent decrease). The largest increases occurred for Pacific cod from 50,269 mt to 60,102 (20 percent increase); for deep-water flatfish from 9,172 mt to 9,793 (7 percent increase); for rex sole, from 8,468 mt to 8,827 mt (4 percent increase); and for Atka mackerel, from 1,500 mt to 2,000 mt (33 percent increase). Other increases or decreases in 2010 are within 2 percent of the proposed specifications.

Compared to the proposed 2009 and 2010 harvest specifications, the Council's final 2009 and 2010 TAC recommendations increase fishing opportunities for species for which the Council had sufficient information to raise TAC levels. For 2009, these include rex sole, Pacific ocean perch, and Atka mackerel. For 2010, TACs were increased for Pacific cod, deep-water flatfish, rex sole, flathead sole, Pacific ocean perch, and Atka mackerel. Conversely, the Council reduced TAC levels to provide greater protection for some species. In 2009, TACs were reduced for pollock, Pacific cod, sablefish, pelagic shelf rockfish, and demersal shelf rockfish. In 2010, TACs were again reduced for pollock, sablefish, pelagic shelf rockfish, and demersal shelf rockfish. The changes in the final rule from the proposed rule are based on the most recent scientific information and implement the harvest strategy described in the proposed rule for the harvest specifications. Tables 1 and 2 list the 2009 and 2010 final OFL, ABC, and TAC amounts for GOA groundfish, respectively.

TABLE 1—FINAL 2009 ABCS, TACS, AND OFLS OF GROUNDFISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT (W/C/WYK), WESTERN (W), CENTRAL (C), EASTERN (E) REGULATORY AREAS, AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE (SEO), AND GULFWIDE (GW) DISTRICTS OF THE GULF OF ALASKA

[Values are rounded to the nearest metric ton]

Species	Area/district [1]	ABC	TAC	OFL
Pollock [2]	Shumagin (610)	15,249	15,249	n/a
	Chirikof (620)	14,098	14,098	n/a
	Kodiak (630)	11,058	11,058	n/a
	WYK (640)	1,215	1,215	n/a
Subtotal	W/C/WYK	41,620	41,620	58,590
	SEO (650)	8,280	8,280	11,040
Total		49,900	49,900	69,630
Pacific cod [3]	W	21,567	16,175	n/a
	C	31,521	23,641	n/a
	E	2,212	1,991	n/a
Total		55,300	41,807	66,600
Flatfish [4] (deep-water)	W	706	706	n/a
	C	6,927	6,927	n/a
	WYK	997	997	n/a
	SEO	538	538	n/a
Total		9,168	9,168	11,578
Rex sole	W	1,007	1,007	n/a

TABLE 1—FINAL 2009 ABCS, TACS, AND OFLS OF GROUNDFISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT (W/C/WYK), WESTERN (W), CENTRAL (C), EASTERN (E) REGULATORY AREAS, AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE (SEO), AND GULFWIDE (GW) DISTRICTS OF THE GULF OF ALASKA—Continued

[Values are rounded to the nearest metric ton]

Species	Area/district [1]	ABC	TAC	OFL
	C	6,630	6,630	n/a
	WYK	513	513	n/a
	SEO	846	846	n/a
Total		8,996	8,996	11,756
Flathead sole	W	13,010	2,000	n/a
	C	29,273	5,000	n/a
	WYK	3,531	3,531	n/a
	SEO	650	650	n/a
Total		46,464	11,181	57,911
Flatfish [5] (shallow-water)	W	26,360	4,500	n/a
	C	29,873	13,000	n/a
	WYK	3,333	3,333	n/a
	SEO	1,423	1,423	n/a
Total		60,989	22,256	74,364
Arrowtooth flounder	W	30,148	8,000	n/a
	C	164,251	30,000	n/a
	WYK	14,908	2,500	n/a
	SEO	12,205	2,500	n/a
Total		221,512	43,000	261,022
Sablefish [6]	W	1,640	1,640	n/a
	C	4,990	4,990	n/a
	WYK	1,784	1,784	n/a
	SEO	2,746	2,746	n/a
Subtotal	E (WYK and SEO)	4,530	4,530	n/a
Total		11,160	11,160	13,190
Pacific ocean perch [7]	W	3,713	3,713	4,409
	C	8,246	8,246	9,790
	WYK	1,108	1,108	n/a
	SEO	2,044	2,044	n/a
Subtotal	E (WYK and SEO)	3,152	3,152	3,741
Total		15,111	15,111	17,940
Shortraker rockfish [8]	W	120	120	n/a
	C	315	315	n/a
	E	463	463	n/a
Total		898	898	1,197
Rougheye rockfish [9]	W	125	125	n/a
	C	833	833	n/a
	E	326	326	n/a
Total		1,284	1,284	1,545
Other rockfish [10 11]	W	357	357	n/a
	C	569	569	n/a
	WYK	604	604	n/a
	SEO	2,767	200	n/a
Total		4,297	1,730	5,624
Northern rockfish [11 12]	W	2,054	2,054	n/a
	C	2,308	2,308	n/a
	E	0	0	n/a
Total		4,362	4,362	5,204

TABLE 1—FINAL 2009 ABCS, TACS, AND OFLS OF GROUNDFISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT (W/C/WYK), WESTERN (W), CENTRAL (C), EASTERN (E) REGULATORY AREAS, AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE (SEO), AND GULFWIDE (GW) DISTRICTS OF THE GULF OF ALASKA—Continued

[Values are rounded to the nearest metric ton]

Species	Area/district [1]	ABC	TAC	OFL
Pelagic shelf rockfish [13]	W	819	819	n/a
	C	3,404	3,404	n/a
	WYK	234	234	n/a
	SEO	324	324	n/a
Total		4,781	4,781	5,803
Thornyhead rockfish	W	267	267	n/a
	C	860	860	n/a
	E	783	783	n/a
Total		1,910	1,910	2,540
Big skates [14]	W	632	632	n/a
	C	2,065	2,065	n/a
	E	633	633	n/a
Total		3,330	3,330	4,439
Longnose skates [15]	W	78	78	n/a
	C	2,041	2,041	n/a
	E	768	768	n/a
Total		2,887	2,887	3,849
Other skates [16]	GW	2,104	2,104	2,806
Demersal shelf rockfish [17]	SEO	362	362	580
Atka mackerel	GW	4,700	2,000	6,200
Other species [18]	GW	6,540	4,500	8,720
Total		516,055	242,727	632,498

[1] Regulatory areas and districts are defined at 50 CFR 679.2. (W=Western Gulf of Alaska; C=Central Gulf of Alaska; E=Eastern Gulf of Alaska; WYK=West Yakutat District; SEO=Southeast Outside District; GW=Gulf-wide).

[2] Pollock is apportioned in the Western/Central Regulatory Areas among three statistical areas. During the A season, the apportionment is based on an adjusted estimate of the relative distribution of pollock biomass of approximately 32 percent, 43 percent, and 25 percent in Statistical Areas 610, 620, and 630, respectively. During the B season, the apportionment is based on the relative distribution of pollock biomass at 32 percent, 54 percent, and 14 percent in Statistical Areas 610, 620, and 630, respectively. During the C and D seasons, the apportionment is based on the relative distribution of pollock biomass at 43 percent, 21 percent, and 35 percent in Statistical Areas 610, 620, and 630, respectively. Tables 5 and 6 list the 2009 and 2010 seasonal apportionments of pollock. In the WYK District and SEO Districts of the Eastern Regulatory Area, pollock is not divided into seasonal allowances.

[3] The annual Pacific cod TAC is apportioned 60 percent to an A season and 40 percent to a B season in the Western and Central Regulatory Areas of the GOA. Pacific cod is allocated 90 percent for processing by the inshore component and 10 percent for processing by the offshore component in the Western and Central Regulatory Areas of the GOA. Tables 7 and 8 list the 2009 and 2010 seasonal apportionments and component allocations of the Pacific cod TAC.

[4] "Deep-water flatfish" means Dover sole, Greenland turbot, and deepsea sole.

[5] "Shallow-water flatfish" means flatfish not including "deep water flatfish," flathead sole, rex sole, or arrowtooth flounder.

[6] Sablefish is allocated to trawl and hook-and-line gears for 2008 and to trawl gear in 2009. Tables 3 and 4 list the 2008 and 2009 allocations of sablefish.

[7] "Pacific ocean perch" means *Sebastes alutus.*

[8] "Shortraker rockfish" means *Sebastes borealis.*

[9] "Rougheye rockfish" means *Sebastes aleutianus* (rougheye) and *Sebastes melanostictus* (blackspotted).

[10] "Other rockfish" in the Western and Central Regulatory Areas and in the WYK District means slope rockfish and demersal shelf rockfish. The category "other rockfish" in the SEO District means slope rockfish.

[11] "Slope rockfish" means *Sebastes aurora* (aurora), *S. melanostomus* (blackgill), *S. paucispinis* (bocaccio), *S. goodei* (chilipepper), *S. crameri* (darkblotch), *S. elongatus* (greenstriped), *S. variegatus* (harlequin), *S. wilsoni* (pygmy), *S. babcocki* (redbanded), *S. proriger* (redstripe), *S. zacentrus* (sharpchin), *S. jordani* (shortbelly), *S. brevispinis* (silvergrey), *S. diploproa* (splitnose), *S. saxicola* (stripetail), *S. miniatus* (vermilion), and *S. reedi* (yellowmouth). In the Eastern Regulatory Area only, slope rockfish also includes northern rockfish, *S. polyspinis.*

[12] "Northern rockfish" means *Sebastes polyspinis.* The 2 mt ABC for northern rockfish in the Eastern Regulatory Area has been combined with the ABC for slope rockfish in the WYK District.

[13] "Pelagic shelf rockfish" means *Sebastes variabilis* (dusky), *S. entomelas* (widow), and *S. flavidus* (yellowtail).

[14] Big skate means *Raja binoculata.*

[15] Longnose skate means *Raja rhina.*

[16] Other skates means *Bathyraja* spp.

[17] "Demersal shelf rockfish" means *Sebastes pinniger* (canary), *S. nebulosus* (china), *S. caurinus* (copper), *S. maliger* (quillback), *S. helvomaculatus* (rosethorn), *S. nigrocinctus* (tiger), and *S. ruberrimus* (yelloweye).

[18] "Other species" means sculpins, sharks, squid, and octopus.

TABLE 2—FINAL 2010 ABCS, TACS, AND OFLS OF GROUNDFISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT (W/C/WYK), WESTERN (W), CENTRAL (C), EASTERN (E) REGULATORY AREAS, AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE (SEO), AND GULFWIDE (GW) DISTRICTS OF THE GULF OF ALASKA

[Values are rounded to the nearest metric ton]

Species	Area/district [1]	ABC	TAC	OFL
Pollock [2]	Shumagin (610)	24,199	24,199	n/a
	Chirikof (620)	22,374	22,374	n/a
	Kodiak (630)	17,548	17,548	n/a
	WYK (640)	1,929	1,929	n/a
Subtotal	W/C/WYK	66,050	66,050	90,920
	SEO (650)	8,280	8,280	11,040
Total		74,330	74,330	101,960
Pacific cod [3]	W	31,005	23,254	n/a
	C	45,315	33,986	n/a
	E	3,180	2,862	n/a
Total		79,500	60,102	126,000
Flatfish [4] (deep-water)	W	747	747	n/a
	C	7,405	7,405	n/a
	WYK	1,066	1,066	n/a
	SEO	575	575	n/a
Total		9,793	9,793	12,367
Rex sole	W	988	988	n/a
	C	6,506	6,506	n/a
	WYK	503	503	n/a
	SEO	830	830	n/a
Total		8,827	8,827	11,535
Flathead sole	W	13,342	2,000	n/a
	C	30,021	5,000	n/a
	WYK	3,622	3,622	n/a
	SEO	667	667	n/a
Total		47,652	11,289	59,349
Flatfish [5] (shallow-water)	W	26,360	4,500	n/a
	C	29,873	13,000	n/a
	WYK	3,333	3,333	n/a
	SEO	1,423	1,423	n/a
Total		60,989	22,256	74,364
Arrowtooth flounder	W	29,843	8,000	n/a
	C	162,591	30,000	n/a
	WYK	14,757	2,500	n/a
	SEO	12,082	2,500	n/a
Total		219,273	43,000	258,397
Sablefish [6]	W	1,523	1,523	n/a
	C	4,625	4,625	n/a
	WYK	1,645	1,645	n/a
	SEO	2,544	2,544	n/a
Subtotal	E (WYK and SEO)	4,189	4,189	n/a
Total		10,337	10,337	12,321
Pacific ocean perch [7]	W	3,710	3,710	4,405
	C	8,239	8,239	9,782
	WYK	1,107	1,107	n/a
	SEO	2,042	2,042	n/a
Subtotal	E (WYK and SEO)	3,149	3,149	3,738
Total		15,098	15,098	17,925

TABLE 2—FINAL 2010 ABCS, TACS, AND OFLS OF GROUNDFISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT (W/C/WYK), WESTERN (W), CENTRAL (C), EASTERN (E) REGULATORY AREAS, AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE (SEO), AND GULFWIDE (GW) DISTRICTS OF THE GULF OF ALASKA—Continued

[Values are rounded to the nearest metric ton]

Species	Area/district [1]	ABC	TAC	OFL
Shortraker rockfish [8]	W	120	120	n/a
	C	315	315	n/a
	E	463	463	n/a
Total		898	898	1,197
Rougheye rockfish [9]	W	126	126	n/a
	C	842	842	n/a
	E	329	329	n/a
Total		1,297	1,297	1,562
Other rockfish [10 11]	W	357	357	n/a
	C	569	569	n/a
	WYK	604	604	n/a
	SEO	2,767	200	n/a
Total		4,297	1,730	5,624
Northern rockfish [11 12]	W	1,965	1,965	n/a
	C	2,208	2,208	n/a
	E	0	0	n/a
Total		4,173	4,173	4,979
Pelagic shelf rockfish [13]	W	765	765	n/a
	C	3,179	3,179	n/a
	WYK	219	219	n/a
	SEO	302	302	n/a
Total		4,465	4,465	5,420
Thornyhead rockfish	W	267	267	n/a
	C	860	860	n/a
	E	783	783	n/a
Total		1,910	1,910	2,540
Big skates [14]	W	632	632	n/a
	C	2,065	2,065	n/a
	E	633	633	n/a
Total		3,330	3,330	4,439
Longnose skates [15]	W	78	78	n/a
	C	2,041	2,041	n/a
	E	768	768	n/a
Total		2,887	2,887	3,849
Other skates [16]	GW	2,104	2,104	2,806
Demersal shelf rockfish [17]	SEO	362	362	580
Atka mackerel	GW	4,700	2,000	6,200
Other species [18]	GW	6,540	4,500	8,720
Total		562,762	284,688	722,134

[1] Regulatory areas and districts are defined at 50 CFR 679.2. (W=Western Gulf of Alaska; C=Central Gulf of Alaska; E=Eastern Gulf of Alaska; WYK=West Yakutat District; SEO=Southeast Outside District; GW=Gulf-wide).

[2] Pollock is apportioned in the Western/Central Regulatory Areas among three statistical areas. During the A season, the apportionment is based on an adjusted estimate of the relative distribution of pollock biomass of approximately 32 percent, 43 percent, and 25 percent in Statistical Areas 610, 620, and 630, respectively. During the B season, the apportionment is based on the relative distribution of pollock biomass at 32 percent, 54 percent, and 14 percent in Statistical Areas 610, 620, and 630, respectively. During the C and D seasons, the apportionment is based on the relative distribution of pollock biomass at 43 percent, 21 percent, and 35 percent in Statistical Areas 610, 620, and 630, respectively. Tables 5 and 6 list the 2009 and 2010 seasonal apportionments of pollock. In the WYK District and SEO Districts of the Eastern Regulatory Area, pollock is not divided into seasonal allowances.

[3] The annual Pacific cod TAC is apportioned 60 percent to an A season and 40 percent to a B season in the Western and Central Regulatory Areas of the GOA. Pacific cod is allocated 90 percent for processing by the inshore component and 10 percent for processing by the offshore component in the Western and Central Regulatory Areas of the GOA. Tables 7 and 8 list the 2009 and 2010 seasonal apportionments and component allocations of the Pacific cod TAC.

[4] "Deep-water flatfish" means Dover sole, Greenland turbot, and deepsea sole.

[5] "Shallow-water flatfish" means flatfish not including "deep water flatfish," flathead sole, rex sole, or arrowtooth flounder.
[6] Sablefish is allocated to trawl and hook-and-line gears for 2008 and to trawl gear in 2009. Tables 3 and 4 list the 2008 and 2009 allocations of sablefish.
[7] "Pacific ocean perch" means *Sebastes alutus.*
[8] "Shortraker rockfish" means *Sebastes borealis.*
[9] "Rougheye rockfish" means *Sebastes aleutianus* (rougheye) and *Sebastes melanostictus* (blackspotted).
[10] "Other rockfish" in the Western and Central Regulatory Areas and in the WYK District means slope rockfish and demersal shelf rockfish. The category "other rockfish" in the SEO District means slope rockfish.
[11] "Slope rockfish" means *Sebastes aurora* (aurora), *S. melanostomus* (blackgill), *S. paucispinis* (bocaccio), *S. goodei* (chilipepper), *S. crameri* (darkblotch), *S. elongatus* (greenstriped), *S. variegatus* (harlequin), *S. wilsoni* (pygmy), *S. babcocki* (redbanded), *S. proriger* (redstripe), *S. zacentrus* (sharpchin), *S. jordani* (shortbelly), *S. brevispinis* (silvergrey), *S. diploproa* (splitnose), *S. saxicola* (stripetail), *S. miniatus* (vermilion), and *S. reedi* (yellowmouth). In the Eastern Regulatory Area only, slope rockfish also includes northern rockfish, *S. polyspinis.*
[12] "Northern rockfish" means *Sebastes polyspinis.* The 2 mt ABC for northern rockfish in the Eastern Regulatory Area has been combined with the ABC for slope rockfish in the WYK District.
[13] "Pelagic shelf rockfish" means *Sebastes variabilis* (dusky), *S. entomelas* (widow), and *S. flavidus* (yellowtail).
[14] Big skate means *Raja binoculata.*
[15] Longnose skate means *Raja rhina.*
[16] Other skates means *Bathyraja spp.*
[17] "Demersal shelf rockfish" means *Sebastes pinniger* (canary), *S. nebulosus* (china), *S. caurinus* (copper), *S. maliger* (quillback), *S. helvomaculatus* (rosethorn), *S. nigrocinctus* (tiger), and *S. ruberrimus* (yelloweye).
[18] "Other species" means sculpins, sharks, squid, and octopus.

Apportionment of Reserves

Section 679.20(b)(2) requires 20 percent of each TAC for pollock, Pacific cod, flatfish, and the "other species" category be set aside in reserves for possible apportionment at a later date during the fishing year. In 2008, NMFS reapportioned all the reserves in the final harvest specifications. For 2009 and 2010, NMFS proposed reapportionment of all the reserves in the proposed 2009 and 2010 harvest specifications published in the **Federal Register** on December 2, 2008 (73 FR 73222). NMFS received no public comments on the proposed reapportionments. For the final 2009 and 2010 harvest specifications, NMFS reapportioned as proposed all the reserves for pollock, Pacific cod, flatfish, and "other species." Specifications of TAC shown in Tables 1 and 2 reflect reapportionment of reserve amounts for these species and species groups.

Allocations of the Sablefish TAC Amounts to Vessels Using Hook-and-Line and Trawl Gear

Section 679.20(a)(4)(i) and (ii) require allocations of sablefish TACs for each of the regulatory areas and districts to hook-and-line and trawl gear. In the Western and Central Regulatory Areas, 80 percent of each TAC is allocated to hook-and-line gear, and 20 percent of each TAC is allocated to trawl gear. In the Eastern Regulatory Area, 95 percent of the TAC is allocated to hook-and-line gear, and 5 percent is allocated to trawl gear. The trawl gear allocation in the Eastern Regulatory Area may only be used to support incidental catch of sablefish in directed fisheries for other target species (§ 679.20(a)(1)). In recognition of the trawl ban in the SEO District of the Eastern Regulatory Area, the Council recommended and NMFS concurs with the allocation of 5 percent of the combined Eastern Regulatory Area sablefish TAC to trawl gear in the WYK District and the remainder of the WYK sablefish TAC be available to vessels using hook-and-line gear. As a result, NMFS allocates 100 percent of the sablefish TAC in the SEO District to vessels using hook-and-line gear. The Council recommended that the hook-and-line sablefish TAC be established annually to ensure that the Individual Fishery Quota (IFQ) fishery is conducted concurrent with the halibut IFQ fishery and is based on the most recent survey information. This recommendation results in an allocation of 227 mt to trawl gear and 1,557 mt to hook-and-line gear in the WYK District in 2009, an allocation of 2,746 mt to hook-and-line gear in the SEO District in 2009, and 209 mt to trawl gear in the WYK District in 2010. Table 3 lists the allocations of the 2009 sablefish TACs to hook-and-line and trawl gear. Table 4 lists the allocations of the 2010 sablefish TACs to trawl gear. The Council recommended that only a trawl sablefish TAC be established for two years so that retention of incidental catch of sablefish by trawl gear could commence in January in the second year of the groundfish harvest specifications. However, since there is an annual assessment for sablefish and the final specifications are expected to be published before the IFQ season begins, the industry and Council recommended that the sablefish TAC be set on an annual basis so that the best and most recent scientific information could be considered in recommending the ABCs and TACs. Since sablefish is on bycatch status for trawl gear the entire fishing year and given that fishing for groundfish is prohibited prior to January 20, it is not likely that the sablefish allocation to trawl gear would be reached before the effective date of the final harvest specifications.

TABLE 3—FINAL 2009 SABLEFISH TAC SPECIFICATIONS IN THE GULF OF ALASKA AND ALLOCATIONS TO HOOK-AND-LINE AND TRAWL GEAR

[Values are rounded to the nearest metric ton]

Area/District	TAC	Hook-and-line apportionment	Trawl apportionment
Western	1,640	1,312	328
Central	4,990	3,992	998
West Yakutat [1]	1,784	1,557	227
Southeast Outside	2,746	2,746	0
Total	11,160	9,607	1,553

[1] Represents an allocation of 5 percent of the combined Eastern Regulatory Area sablefish TAC to trawl gear in the WYK District.

TABLE 4—FINAL 2010 SABLEFISH TAC SPECIFICATIONS IN THE GULF OF ALASKA AND ALLOCATION TO TRAWL GEAR

[Values are rounded to the nearest metric ton]

Area/District	TAC	Hook-and-line apportionment[1]	Trawl apportionment
Western	1,523	n/a	305
Central	4,625	n/a	925
West Yakutat[2]	1,645	n/a	209
Southeast Outside	2,544	n/a	0
Total	10,337	0	1,439

[1] The Council recommended that specifications for the hook-and-line gear sablefish Individual Fishery Quota fisheries be limited to 1 year.
[2] Represents an allocation of 5 percent of the combined Eastern Regulatory Area sablefish TAC to trawl gear in the WYK District.

Apportionments of Pollock TAC Among Seasons and Regulatory Areas, and Allocations for Processing by Inshore and Offshore Components

In the GOA, pollock is apportioned by season and area, and is further allocated for processing by inshore and offshore components. Pursuant to § 679.20(a)(5)(iv)(B), the annual pollock TAC specified for the Western and Central Regulatory Areas of the GOA is apportioned into four equal seasonal allowances of 25 percent. As established by § 679.23(d)(2)(i) through (iv), the A, B, C, and D season allowances are available from January 20 to March 10, March 10 to May 31, August 25 to October 1, and October 1 to November 1, respectively.

Pollock TACs in the Western and Central Regulatory Areas of the GOA are apportioned among Statistical Areas 610, 620, and 630. In the A and B seasons, the apportionments are in proportion to the distribution of pollock biomass based on the four most recent NMFS winter surveys. In the C and D seasons, the apportionments are in proportion to the distribution of pollock biomass based on the four most recent NMFS summer surveys. For 2009 and 2010, the Council recommends and NMFS approves averaging the winter and summer distribution of pollock in the Central Regulatory Area for the A season. The average is intended to reflect the distribution of pollock and the performance of the fishery in the area during the A season for the 2009 and 2010 fishing years. Within any fishing year, the amount by which a seasonal allowance is underharvested or overharvested may be added to, or subtracted from, subsequent seasonal allowances in a manner to be determined by the Regional Administrator. The rollover amount of unharvested pollock is limited to 20 percent of the seasonal apportionment for the statistical area. Any unharvested pollock above the 20 percent limit could be further distributed to the other statistical areas, in proportion to the estimated biomass in the subsequent season in those statistical areas (§ 679.20(a)(5)(iv)(B)). The WYK and SEO District pollock TACs of 1,215 mt and 8,280 mt, respectively, in 2009, and 1,929 mt and 8,280 mt, respectively, in 2010, are not allocated by season.

Section 679.20(a)(6)(i) requires the allocation of 100 percent of the pollock TAC in all regulatory areas and all seasonal allowances to vessels catching pollock for processing by the inshore component after subtracting amounts projected by the Regional Administrator to be caught by, or delivered to, the offshore component incidental to directed fishing for other groundfish species. The amount of pollock available for harvest by vessels harvesting pollock for processing by the offshore component is that amount actually taken as incidental catch during directed fishing for groundfish species other than pollock, up to the maximum retainable amounts allowed by § 679.20(e) and (f). At this time, these incidental catch amounts are unknown and will be determined during the fishing year.

The 2009 and 2010 seasonal biomass distribution of pollock in the Western and Central Regulatory Areas, area apportionments, and seasonal apportionments for the A, B, C, and D seasons are summarized in Tables 5 and 6, except that amounts of pollock for processing by the inshore and offshore components are not shown.

TABLE 5—FINAL 2009 DISTRIBUTION OF POLLOCK IN THE CENTRAL AND WESTERN REGULATORY AREAS OF THE GULF OF ALASKA; SEASONAL BIOMASS DISTRIBUTION, AREA APPORTIONMENTS; AND SEASONAL ALLOWANCES OF ANNUAL TAC

[Values are rounded to the nearest metric ton]

Season	Shumagin (Area 610)	Chirikof (Area 620)	Kodiak (Area 630)	Total[1]
A	3,234 (32.01%)	4,365 (43.21%)	2,503 (24.78%)	10,102 (100%)
B	3,233 (32.01%)	5,413 (53.59%)	1,455 (14.90%)	10,101 (100%)
C	4,391 (43.47%)	2,160 (21.38%)	3,550 (35.15%)	10,101 (100%)
D	4,391 (43.47%)	2,160 (21.38%)	3,550 (35.15%)	10,101 (100%)
Annual Total	15,249	14,098	11,058	40,405

[1] The WYK and SEO District pollock TACs are not allocated by season and are not included in the total pollock TACs shown in this table. NOTE: As established by § 679.23(d)(2)(i) through (iv), the A, B, C, and D season allowances are available from January 20 to March 10, March 10 to May 31, August 25 to October 1, and October 1 to November 1, respectively. The amounts of pollock for processing by the inshore and offshore components are not shown in this table.

TABLE 6—FINAL 2010 DISTRIBUTION OF POLLOCK IN THE CENTRAL AND WESTERN REGULATORY AREAS OF THE GULF OF ALASKA; SEASONAL BIOMASS DISTRIBUTION, AREA APPORTIONMENTS; AND SEASONAL ALLOWANCES OF ANNUAL TAC

[Values are rounded to the nearest metric ton]

Season	Shumagin (Area 610)	Chirikof (Area 620)	Kodiak (Area 630)	Total [1]
A	5,132 (32.01%)	6,927 (43.21%)	3,972 (24.78%)	16,031 (100%)
B	5,131 (32.01%)	8,591 (53.39%)	2,308 (14.40%)	16,030 (100%)
C	6,968 (43.47%)	3,428 (21.38%)	5,634 (35.15%)	16,030 (100%)
D	6,968 (43.47%)	3,428 (21.38%)	5,634 (35.15%)	16,030 (100%)
Annual Total	24,199	22,374	17,548	64,121

[1] The WYK and SEO District pollock TACs are not allocated by season and are not included in the total pollock TACs shown in this table.

NOTE: As established by § 679.23(d)(2)(i) through (iv), the A, B, C, and D season allowances are available from January 20 to March 10, March 10 to May 31, August 25 to October 1, and October 1 to November 1, respectively. The amounts of pollock for processing by the inshore and offshore components are not shown in this table.

Seasonal Apportionments of Pacific Cod TAC and Allocations for Processing of Pacific Cod TAC Between Inshore and Offshore Components

Pacific cod fishing is divided into two seasons in the Western and Central Regulatory Areas of the GOA. For hook-and-line, pot, and jig gear, the A season is January 1 through June 10, and the B season is September 1 through December 31. For trawl gear, the A season is January 20 through June 10, and the B season is September 1 through November 1 (§ 679.23(d)(3)). After subtracting incidental catch from the A season, 60 percent of the annual TAC will be available as a DFA during the A season for the inshore and offshore components. The remaining 40 percent of the annual TAC will be available for harvest during the B season. The seasonal allocations will be apportioned between the inshore and offshore components, as provided in § 679.20(a)(6)(ii). Under § 679.20(a)(11)(ii), any overage or underage of the Pacific cod allowance from the A season may be subtracted from or added to the subsequent B season allowance.

Section 679.20(a)(6)(ii) requires allocation of the TAC apportionments of Pacific cod in all regulatory areas to vessels catching Pacific cod for processing by the inshore and offshore components. Ninety percent of the Pacific cod TAC in each regulatory area is allocated to vessels catching Pacific cod for processing by the inshore component. The remaining 10 percent of the TAC is allocated to vessels catching Pacific cod for processing by the offshore component. Tables 7 and 8 lists the seasonal apportionments and allocations of the final 2009 and 2010 Pacific cod TACs, respectively.

TABLE 7—FINAL 2009 SEASONAL APPORTIONMENTS AND ALLOCATION OF PACIFIC COD TAC AMOUNTS IN THE GULF OF ALASKA; ALLOCATIONS FOR PROCESSING BY THE INSHORE AND OFFSHORE COMPONENTS

[Values are rounded to the nearest metric ton]

Season	Regulatory area	TAC	Component allocation	
			Inshore (90%)	Offshore (10%)
	Western	16,175	14,558	1,617
A season (60%)		9,705	8,735	970
B season (40%)		6,470	5,823	647
	Central	23,641	21,277	2,364
A season (60%)		14,185	12,767	1,418
B season (40%)		9,456	8,510	946
	Eastern	1,991	1,792	199
Total		41,807	37,627	4,180

TABLE 8—FINAL 2010 SEASONAL APPORTIONMENTS AND ALLOCATION OF PACIFIC COD TAC AMOUNTS IN THE GULF OF ALASKA; ALLOCATIONS FOR PROCESSING BY THE INSHORE AND OFFSHORE COMPONENTS

[Values are rounded to the nearest metric ton]

Season	Regulatory area	TAC	Component allocation	
			Inshore (90%)	Offshore (10%)
	Western	23,254	20,929	2,325
A season (60%)		13,952	12,557	1,395
B season (40%)		9,302	8,371	930
	Central	33,986	30,587	3,399
A season (60%)		20,392	18,352	2,039
B season (40%)		13,594	12,235	1,359
	Eastern	2,862	2,576	286

TABLE 8—FINAL 2010 SEASONAL APPORTIONMENTS AND ALLOCATION OF PACIFIC COD TAC AMOUNTS IN THE GULF OF ALASKA; ALLOCATIONS FOR PROCESSING BY THE INSHORE AND OFFSHORE COMPONENTS—Continued

[Values are rounded to the nearest metric ton]

Season	Regulatory area	TAC	Component allocation	
			Inshore (90%)	Offshore (10%)
Total		60,102	54,092	6,010

Demersal Shelf Rockfish (DSR)

In 2006 the Alaska Board of Fish (BOF) allocated the Southeast Outside District DSR TAC between the commercial fishery (84 percent) and the sportfish fishery (16 percent). This results in an 2009 and 2010 allocation of 304 mt to the commercial fishery and 58 mt to the sportfish fishery. Estimates of incidental catch of DSR in the commercial halibut fishery are deducted from the DSR commercial fishery allocation. In 2008 this resulted in 120 mt being available for the directed commercial DSR fishery of which 41 mt were harvested. The Alaska Department of Fish and Game (ADF&G) will announce the opening of directed fishing for DSR in January following the International Pacific Halibut Commission's (IPHC) annual meeting to be held January 13–16, 2009. DSR harvest in the halibut fishery is linked to the halibut quota, therefore ADF&G cannot estimate potential DSR incidental catch in that fishery until those quotas are established. Full retention of all DSR by federally permitted catcher vessels using hook-and-line or jig gear fishing for groundfish and Pacific halibut in the SEO District of the GOA is required (§ 679.20(j)).

Apportionments to the Central GOA Rockfish Pilot Program

Section 679.81(a)(1) and (2) require the allocation of the primary rockfish species TACs in the Central Regulatory Area after deducting incidental catch needs in other directed groundfish fisheries, to participants in the Rockfish Pilot Program. Five percent (2.5 percent to trawl gear and 2.5 percent to fixed gear) of the final TACs for Pacific ocean perch, northern rockfish, and pelagic shelf rockfish in the Central Regulatory Area are allocated to the entry level rockfish fishery and the remaining 95 percent to those vessels eligible to participate in the Rockfish Program. NMFS is setting aside in 2009 and 2010 incidental catch amounts (ICAs) of 200 mt of Pacific ocean perch, 100 mt of northern rockfish, and 100 mt of pelagic shelf rockfish for other directed fisheries in the Central Regulatory Area. These amounts are based on the 2003 through 2007 average incidental catch in the Central Regulatory Area by these other groundfish fisheries.

Section 679.83(a)(1)(i) requires allocations to the trawl entry level fishery to be made first from the allocation of Pacific ocean perch available to the rockfish entry level fishery. If the amount of Pacific ocean perch available for allocation is less than the total allocation allowable for trawl catcher vessels in the rockfish entry level fishery, then northern rockfish and pelagic shelf rockfish must be allocated to trawl catcher vessels. Allocations of Pacific ocean perch, northern rockfish, and pelagic shelf rockfish to longline gear vessels must be made after the allocations to trawl gear.

Tables 9 and 10 list the final 2009 and 2010 allocations of rockfish in the Central GOA to trawl and longline gear in the entry level rockfish fishery, respectively.

TABLE 9—FINAL 2009 ALLOCATIONS OF ROCKFISH IN THE CENTRAL GULF OF ALASKA TO TRAWL AND LONGLINE GEAR [1] IN THE ENTRY LEVEL ROCKFISH FISHERY

[Values are rounded to nearest mt]

Species	TAC	Incidental catch allowance	TAC minus ICA	5% TAC minus ICA	2.5% TAC minus ICA	Entry level trawl allocation	Entry level longline allocation
Pacific ocean perch	8,246	200	8,046	402	201	339	63
Northern rockfish	2,308	100	2,208	110	55	0	110
Pelagic shelf rockfish	3,404	100	3,304	165	83	0	165
Total	13,958	400	13,558	678	339	339	339

[1] Longline gear includes jig and hook-and-line gear.

TABLE 10—FINAL 2010 ALLOCATIONS OF ROCKFISH IN THE CENTRAL GULF OF ALASKA TO TRAWL AND LONGLINE GEAR [1] IN THE ENTRY LEVEL ROCKFISH FISHERY

[Values are rounded to nearest mt]

Species	TAC	Incidental catch allowance	TAC minus ICA	5% TAC minus ICA	2.5% TAC minus ICA	Entry level trawl allocation	Entry level longline allocation
Pacific ocean perch	8,239	200	8,039	402	201	331	71
Northern rockfish	2,208	100	2,108	105	53	0	105
Pelagic shelf rockfish	3,179	100	3,079	154	77	0	154
Total	13,626	400	13,226	661	331	331	330

[1] Longline gear includes jig and hook-and-line gear.

Halibut PSC Limits

Section 679.21(d) establishes the annual halibut PSC limit apportionments to trawl and hook-and-line gear and permits the establishment of apportionments for pot gear. In December 2008, the Council recommended that NMFS maintain the 2008 halibut PSC limits of 2,000 mt for the trawl fisheries and 300 mt for the hook-and-line fisheries. Ten mt of the hook-and-line limit is further allocated to the DSR fishery in the SEO District. The DSR fishery is defined at § 679.21(d)(4)(iii)(A). This fishery has been apportioned 10 mt in recognition of its small-scale harvests. Most vessels in the DSR fishery are less than 60 ft (18.3 m) length overall (LOA) and are exempt from observer coverage. Therefore, observer data are not available to verify actual bycatch amounts. NMFS assumes the halibut bycatch in the DSR fishery is low because of the short soak times for the gear and duration of the DSR fishery. Also, the DSR fishery occurs in the winter when less overlap occurs in the distribution of DSR and halibut. Finally, much of the DSR TAC is not available to the directed DSR commercial fishery. The Alaska Department of Fish and Game sets the Guideline Harvest Level (GHL) after estimates of incidental catch in all fisheries (including halibut and subsistence) and allocation to the sportfish fishery have been deducted. Of the 382 mt TAC for DSR in 2008, 120 mt was available for the commercial fishery of which 41 mt were harvested.

Section 679.21(d)(4)(i) authorizes the exemption of specified non-trawl fisheries from the halibut PSC limit. NMFS, after consultation with the Council, exempts pot gear, jig gear, and the sablefish IFQ hook-and-line gear fishery from the non-trawl halibut limit for 2009 and 2010. The Council recommended these exemptions because (1) the pot gear fisheries have low annual halibut bycatch mortality (averaging 19 mt annually from 2001 through 2008); (2) the halibut and sablefish IFQ fisheries have low halibut bycatch mortality because the IFQ program requires retention of legal-sized halibut by vessels using hook-and-line gear if a halibut IFQ permit holder is aboard and is holding unused halibut IFQ; and (3) halibut mortality for the jig gear fisheries is assumed to be negligible. Halibut mortality is assumed to be negligible in the jig gear fisheries given the small amount of groundfish harvested by jig gear (averaging 268 mt annually from 2001 through 2008), the selective nature of jig gear, and the high survival rates of halibut caught and released with jig gear.

Section 679.21(d)(5) provides NMFS the authority to seasonally apportion the halibut PSC limits after consultation with the Council. The FMP and regulations require the Council and NMFS to consider the following information in seasonally apportioning halibut PSC limits: (1) Seasonal distribution of halibut; (2) seasonal distribution of target groundfish species relative to halibut distribution; (3) expected halibut bycatch needs on a seasonal basis relative to changes in halibut biomass and expected catch of target groundfish species; (4) expected bycatch rates on a seasonal basis; (5) expected changes in directed groundfish fishing seasons; (6) expected actual start of fishing effort; and (7) economic effects of establishing seasonal halibut allocations on segments of the target groundfish industry.

The final 2008 and 2009 groundfish harvest specifications (73 FR 10562, February 27, 2008) summarized the Council and NMFS's findings with respect to each of these FMP considerations. The Council and NMFS's findings for 2009 and 2010 are unchanged from 2008. The opening dates and halibut PSC limitations for vessels using trawl gear participating in the Rockfish Program in the Central Regulatory Area are described in the final rule to implement the Rockfish Program (71 FR 67210, November 20, 2006).

NMFS concurs in the Council's recommendations listed in Table 11, which shows the final 2009 and 2010 Pacific halilbut PSC limits, allowances, and apportionments. Sections 679.21(d)(5)(iii) and (iv) specify that any underages or overages of a seasonal apportionment of a PSC limit will be deducted from or added to the next respective seasonal apportionment within the fishing year. The information to establish the halibut PSC limits was obtained from the 2008 SAFE report, NMFS, ADF&G, the IPHC, and public testimony.

TABLE 11—FINAL 2009 AND 2010 PACIFIC HALIBUT PSC LIMITS, ALLOWANCES, AND APPORTIONMENTS

[Values are in metric tons]

Trawl gear		Hook-and-line gear [1]			
		DSR			
Season	Amount	Other than DSR	Season	Amount	Season
January 20–April 1	550 (27.5%)	January 1–June 10	250 (86%)	January 1–December 31	10 (100%)
April 1–July 1	400 (20%)	June 10–September 1	5 (2%)		
July 1–September 1	600 (30%)	September 1–December 31.	35 (12%)		
September 1–October 1	150 (7.5%)	n/a	n/a		
October 1–December 31	300 (15%)	n/a	n/a		
Total	2,000 (100%)	n/a	290 (100%)		10 (100%)

[1] The Pacific halibut PSC limit for hook-and-line gear is allocated to the demersal shelf rockfish (DSR) fishery and fisheries other than DSR. The hook-and-line sablefish fishery is exempt from halibut PSC limits.

Section 679.21(d)(3)(ii) authorizes further apportionment of the trawl halibut PSC limit to trawl fishery categories. The annual apportionments are based on each category's proportional share of the anticipated halibut bycatch mortality during the fishing year and optimization of the total amount of groundfish harvest under the halibut PSC limit. The fishery categories for the trawl halibut PSC limits are (1) a deep-water species complex, comprised of sablefish, rockfish, deep-water flatfish, rex sole and arrowtooth flounder; and (2) a shallow-water species complex, comprised of pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, skates, and ''other species'' ((679.21(d)(3)(iii)). Table 12 lists the final 2009 and 2010

apportionments of Pacific halibut PSC trawl limits between the trawl gear deep-water species complex and shallow-water species complex.

TABLE 12—FINAL 2009 AND 2010 APPORTIONMENT OF PACIFIC HALIBUT PSC TRAWL LIMITS BETWEEN THE TRAWL GEAR DEEP-WATER SPECIES COMPLEX AND THE SHALLOW-WATER SPECIES COMPLEX

[Values are in metric tons]

Season	Shallow-water species complex	Deep-water species complex [1]	Total
January 20–April 1	450	100	550
April 1–July 1	100	300	400
July 1–September 1	200	400	600
September 1–October 1	150	Any remainder	150
Subtotal January 20–October 1	900	800	1,700
October 1–December 31 [2]	n/a	n/a	300
Total	n/a	n/a	2,000

[1] Vessels participating in cooperatives in the Central Gulf of Alaska Rockfish Pilot Program will receive a portion of the third season (July 1–September 1) deep-water category halibut PSC apportionment. At this time, this amount is unknown but will be posted later on the Alaska Region Web site at *http://www.alaskafisheries.noaa.gov* when it becomes available.

[2] There is no apportionment between shallow-water and deep-water fishery complexes during the 5th season (October 1–December 31).

Estimated Halibut Bycatch in Prior Years

The best available information on estimated halibut bycatch is data collected by observers during 2008. The calculated halibut bycatch mortality by trawl, hook-and-line, and pot gears through December 31, 2008, is 1,950 mt, 413 mt, and 29 mt, respectively, for a total halibut mortality of 2,392 mt.

Halibut bycatch restrictions seasonally constrained trawl gear fisheries during the 2008 fishing year. The trawl fishery during the second season was closed for the deep-water species category on April 21 (73 FR 22062, April 24, 2008), and during the fourth season on September 11 (73 FR 53159, September 15, 2008). The trawl fishery during the first season was closed for the shallow-water species category on March 10 (73 FR 13464, March 13, 2008) and opened on March 21 through May 21 (73 FR 15942, March 26, 2008, and 73 FR 30318, May 27, 2008). To prevent exceeding the fourth season halibut PSC limit for the shallow-water species category, directed fishing using trawl gear was limited to one 48-hour open period beginning September 1 (73 FR 51601, September 4, 2008), and to one 36-hour period beginning September 10 (73 FR 52930, September 12, 2008). The trawl fishery for all groundfish targets (with the exception of vessels targeting pollock where open using pelagic trawl gear and vessels participating in the Rockfish Program in the Central GOA) closed for the fifth season on November 6, 2008 (73 FR 66561, November 10, 2008) and reopened on November 16, 2008 (73 FR 69586, November 19, 2008) following the reallocation of unused halibut PSC from rockfish cooperatives in the Central Gulf of Alaska Rockfish Pilot Program to vessels using trawl gear in the GOA (73 FR 69587, November 19, 2008). Directed fishing for groundfish using hook-and-line gear closed for the year on October 16 (73 FR 62212, October 20, 2008). The amount of groundfish that vessels using hook-and-line and trawl gear might have harvested if halibut PSC limits had not restricted the 2008 season is unknown.

Expected Changes in Groundfish Stocks and Catch

The final 2009 ABCs for deep-water flatfish, flathead sole, and Pacific ocean perch are higher than those established for 2008, while the final 2009 ABCs for pollock, Pacific cod, rex sole, arrowtooth flounder, rougheye rockfish, northern rockfish, pelagic shelf rockfish, demersal shelf rockfish, and sablefish are lower than those established for 2008. The final 2010 ABCs for pollock, Pacific cod, deep-water flatfish, flathead sole, Pacific ocean perch, and rougheye rockfish are higher than those established for 2008, while the final 2010 ABCs for arrowtooth flounder, rex sole, rougheye rockfish, northern rockfish, pelagic shelf rockfish, demersal shelf rockfish, and sablefish are lower than those established for 2008. For the remaining target species, the Council recommended that ABC levels remain unchanged from 2008. More information on these changes is included in the final SAFE report (November 2008). This document is available from the Council (see **ADDRESSES**).

In the GOA, the total final 2009 TAC amounts are 242,727 mt, a decrease of 7.6 percent from the 2008 TAC total of 262,826 mt. The total final 2010 TAC amounts are 284,688 mt, an increase of 8.3 percent from the 2008 TAC total of 262,826 mt. Table 13 compares the final 2008 TACs to the final 2009 and 2010 TACs.

TABLE 13—COMPARISON OF FINAL 2008 AND FINAL 2009 AND 2010 TOTAL ALLOWABLE CATCH IN THE GULF OF ALASKA

[Values are rounded to the nearest metric ton]

Species	2008	2009	2010
Pollock	60,180	49,900	74,330
Pacific cod	50,269	41,807	60,102
Deep-water flatfish	8,903	9,168	9,793
Rex sole	9,132	8,996	8,827
Flathead sole	11,054	11,181	11,289
Shallow-water flatfish	22,256	22,256	22,256
Arrowtooth flounder	43,000	43,000	43,000
Sablefish	12,730	11,160	10,337

TABLE 13—COMPARISON OF FINAL 2008 AND FINAL 2009 AND 2010 TOTAL ALLOWABLE CATCH IN THE GULF OF ALASKA—Continued

[Values are rounded to the nearest metric ton]

Species	2008	2009	2010
Pacific ocean perch	14,999	15,111	15,098
Shortraker rockfish	898	898	898
Rougheye rockfish	1,286	1,284	1,297
Other rockfish	1,730	1,730	1,730
Northern rockfish	4,549	4,362	4,173
Pelagic shelf rockfish	5,227	4,781	4,465
Thornyhead rockfish	1,910	1,910	1,910
Big skates	3,330	3,330	3,330
Longnose skates	2,887	2,887	2,887
Other skates	2,104	2,104	2,104
Demersal shelf rockfish	382	362	362
Atka mackerel	1,500	2,000	2,000
"Other species"	4,500	4,500	4,500
Total	262,826	242,727	284,688

Current Estimates of Halibut Biomass and Stock Condition

The most recent halibut stock assessment was developed by the International Pacific Halibut Commission (IPHC) staff in December 2008 for the 2009 commercial fishery; this assessment was considered by the IPHC at its annual January 2009 meeting. Information from ongoing passive integrated transponder (PIT) tag recoveries, as well as inconsistencies in the traditional closed-area stock assessments for some areas has prompted the IPHC to reexamine the stock assessment framework and corresponding harvest policy. It had been assumed that once the halibut reached legal commercial size there was little movement between regulatory areas. PIT tag recoveries indicate greater movement between regulatory areas than previously thought. In response to this new information, IPHC staff developed a coast-wide assessment based on a single stock. The assessment recommends a coast-wide harvest rate of 20 percent of the exploitable biomass (Ebio) overall, but a lower harvest rate of 15 percent for Areas 4A, B, C, D, and E. The current estimate of coast-wide (United States and Canada) EBio for 2009 is 147,419 mt, down from 163,749 mt estimated for 2008. Virtually all of the decrease is due to lower survey and commercial catch rates of legal-sized halibut. Projections based on the currently estimated age compositions suggest that the exploitable and female spawning biomass will increase over the next several years as a sequence of strong year classes recruit to the legal-sized component of the population. The female spawning biomass (Sbio) is estimated to be 14,288 mt for 2009, an increase of 3 percent from 2008, and approximately 35 percent of the estimated unfished SBio of 398,258 mt.

The halibut resource is fully utilized. Recent catches, over the last 14 years (1994–2007) in the commercial halibut fisheries in Alaska have averaged 33,675 mt round weight. In January 2009, the IPHC approved Alaska commercial catch limits totaling 27,518 mt round weight for 2009, a 9 percent decrease from 30,349 mt in 2008. Through December 31, 2008, commercial hook-and-line harvests of halibut off Alaska totaled 29,577 mt round weight.

Additional information on the Pacific halibut stock assessment may be found in the IPHC's 2008 Pacific halibut stock assessment (December 2008), available on the IPHC Web site at *http://www.iphc.washington.edu*. The IPHC considered the 2008 Pacific halibut assessment for 2009 at its January 2009 annual meeting when the IPHC set the 2009 commercial halibut fishery catch limits.

Other Factors

The proposed 2009 and 2010 harvest specifications (73 FR 73222, December 2, 2008) discuss potential impacts of expected fishing for groundfish on halibut stocks, as well as methods available for, and costs of, reducing halibut bycatch in the groundfish fisheries.

Halibut Discard Mortality Rates

The Council recommends and NMFS concurs that the halibut discard mortality rates (DMRs) developed and recommended by the IPHC for the 2009 and 2010 GOA groundfish fisheries be used to monitor the 2009 and 2010 GOA halibut bycatch mortality limits. The IPHC recommended use of long-term average DMRs for the 2009 and 2010 groundfish fisheries. The IPHC will analyze observer data annually and recommend changes to the DMRs where a DMR shows large variation from the mean. Most of the IPHC's assumed DMRs were based on an average of mortality rates determined from NMFS observer data collected between 1996 and 2005. Long-term average DMRs were not available for some fisheries, so rates from the most recent years were used. For the ''other species'' and skate fisheries, where insufficient mortality data are available, the mortality rate of halibut caught in the Pacific cod fishery for that gear type was recommended as a default rate. The GOA DMRs for 2009 and 2010 are unchanged from those used in 2008. The DMRs for hook-and-line targeted fisheries range from 10 to 14 percent. The DMRs for trawl target fisheries range from 53 to 76 percent. Each DMR for the pot target fisheries is 16 percent. The final halibut DMRs for vessels fishing in the GOA for 2009 and 2010 are listed in Table 14. A copy of the document justifying these DMRs is available from the Council (*see* **ADDRESSES**) and is discussed in the final 2008 SAFE report, dated November 2008. The IPHC intends to review all of the DMRs in 2009 for use in the groundfish fisheries during 2010 through 2012.

TABLE 14—FINAL 2009 AND 2010 HALIBUT DISCARD MORTALITY RATES FOR VESSELS FISHING IN THE GULF OF ALASKA

[Values are percent of halibut bycatch assumed to be dead]

Gear	Target fishery	Mortality rate (%)
Hook-and-line	Other species	14
	Skates	14
	Pacific cod	14
	Rockfish	10
Trawl	Arrowtooth flounder	69
	Atka mackere	l60
	Deep-water flatfish	53
	Flathead sole	61
	Non-pelagic pollock	59
	Other species	63
	Skates	63
	Pacific cod	63
	Pelagic pollock	76
	Rex sole	63
	Rockfish	67
	Sablefish	65
	Shallow-water flatfish	71
Pot	Other species	16
	Skates	16
	Pacific cod	16

American Fisheries Act (AFA) Catcher/Processor and Catcher Vessel Groundfish Harvest and PSC Limits

Section 679.64 establishes groundfish harvesting and processing sideboard limitations on AFA catcher/processors and catcher vessels in the GOA. These sideboard limits are necessary to protect the interests of fishermen and processors who have not directly benefitted from the AFA from fishermen and processors who have received exclusive harvesting and processing privileges under the AFA. Section 679.7(k)(1)(ii) prohibits listed AFA catcher/processors from harvesting any species of fish in the GOA. Additionally, § 679.7(k)(1)(iv) prohibits listed AFA catcher/processors from processing any pollock harvested in a directed pollock fishery in the GOA and any groundfish harvested in Statistical Area 630 of the GOA.

AFA catcher vessels that are less than 125 ft (38.1 m) LOA, have annual landings of pollock in the Bering Sea and Aleutian Islands less than 5,100 mt, and have made at least 40 groundfish landings from 1995 through 1997 are exempt from GOA sideboard limits under § 679.64(b)(2)(ii). Sideboard limits for non-exempt AFA catcher vessels in the GOA are based on their traditional harvest levels of TAC in groundfish fisheries covered by the GOA FMP. Section 679.64(b)(3)(iii) establishes the groundfish sideboard limitations in the GOA based on the retained catch of non-exempt AFA catcher vessels of each sideboard species from 1995 through 1997 divided by the TAC for that species over the same period. The final 2009 and 2010 non-exempt AFA catcher vessel groundfish harvest sideboard limitations are listed in Tables 15 and 16, respectively. All catch of sideboard species made by non-exempt AFA catcher vessels, whether as targeted catch or incidental catch, will be deducted from the sideboard limits in Tables 15 and 16. The ratios used to calculate these sideboard limits were adjusted slightly to reflect changing two separate vessels' status from non-exempt to exempt, based on NMFS administrative review of these vessels' applications for non-exempt versus exempt status. This results in slight decreases to the catch-to-TAC ratios used in 2008 to establish the non-exempt AFA CV sideboard limits.

TABLE 15—FINAL 2009 GOA NON-EXEMPT AMERICAN FISHERIES ACT CATCHER VESSEL (CV) GROUNDFISH HARVEST SIDEBOARD LIMITATIONS

[Values are rounded to nearest metric ton]

Species	Apportionments by season/gear	Area/component	Ratio of 1995–1997 non-exempt AFA CV catch to 1995–1997 TAC	2009 TAC	2009 non-exempt AFA CV sideboard limit
Pollock	A Season	Shumagin	0.6047	3,234	1,956
	January 20–March 10	Chirikof (620)	0.1167	4,365	509
		Kodiak (630)	0.2028	2,503	508
	B Season	Shumagin	0.6047	3,233	1,955
	March 10—May 31	Chirikof (620)	0.1167	5,413	632
		Kodiak (630)	0.2028	1,455	295
	C Season	Shumagin	0.6047	4,391	2,655
	August 25–October 1	Chirikof (620)	0.1167	2,160	252
		Kodiak (630)	0.2028	3,550	720
	D Season	Shumagin	0.6047	4,391	2,655
	October 1—November 1	Chirikof (620)	0.1167	2,160	252
		Kodiak (630)	0.2028	3,550	720
	Annual	WYK (640)	0.3495	1,215	425
		SEO (650)	0.3495	8,280	2,894

TABLE 15—FINAL 2009 GOA NON-EXEMPT AMERICAN FISHERIES ACT CATCHER VESSEL (CV) GROUNDFISH HARVEST SIDEBOARD LIMITATIONS—Continued

[Values are rounded to nearest metric ton]

Species	Apportionments by season/gear	Area/component	Ratio of 1995–1997 non-exempt AFA CV catch to 1995–1997 TAC	2009 TAC	2009 non-exempt AFA CV sideboard limit
Pacific cod	A Season [1]	W inshore	0.1365	8,735	1,192
	January 1–June 10	W offshore	0.1026	970	100
		C inshore	0.0689	12,767	880
		C offshore	0.0721	1,418	102
	B Season [2]	W inshore	0.1365	5,823	795
	September 1–December 31	W offshore.	0.1026	647	66
		C inshore	0.0689	8,510	586
		C offshore	0.0721	946	68
	Annual	E inshore	0.0079	1,792	14
		E offshore	0.0078	199	2
Flatfish, deep-water	Annual	W	0.0000	706	0
		C	0.0647	6,927	448
		E	0.0128	1,535	20
Rex sole	Annual	W	0.0007	1,007	1
		C	0.0384	6,630	255
		E	0.0029	1,359	4
Flathead sole	Annual	W	0.0036	2,000	7
		C	0.0213	5,000	107
		E	0.0009	4,181	4
Flatfish, shallow-water	Annual	W	0.0156	4,500	70
		C	0.0587	13,000	763
		E	0.0126	4,756	60
Arrowtooth flounder	Annual	W	0.0021	8,000	17
		C	0.0280	30,000	840
		E	0.0002	5,000	1
Sablefish	Annual, trawl gear	W	0.0000	328	0
		C	0.0642	998	64
		E	0.0433	227	10
Pacific ocean perch	Annual	W	0.0023	3,713	9
		C	0.0748	8,246	617
		E	0.0466	3,152	147
Shortraker rockfish	Annual	W	0.0000	120	0
		C	0.0218	315	7
		E	0.0110	463	5
Rougheye rockfish	Annual	W	0.0000	125	0
		C	0.0237	833	20
		E	0.0124	326	4
Other rockfish	Annual	W	0.0034	357	1
		C	0.1699	569	97
		E	0.0000	804	0
Northern rockfish	Annual	W	0.0003	2,054	1
		C	0.0277	2,308	64
Pelagic shelf rockfish	Annual	W	0.0001	819	0
		C	0.0000	3,404	0
		E	0.0067	558	4
Thornyhead rockfish	Annual	W	0.0280	267	7
		C	0.0280	860	24
		E	0.0280	783	22
Big skates	Annual	W	0.0063	632	4
		C	0.0063	2,065	13
		E	0.0063	633	4
Longnose skates	Annual	W	0.0063	78	0
		C	0.0063	2,041	13
		E	0.0063	768	5
Other skates	Annual	Gulfwide	0.0063	2,104	13
Demersal shelf rockfish	Annual	SEO			
			0.0020	362	1
Atka	Annual	Gulfwide	0.0309	2,000	62
Other	Annual	Gulfwide	0.0063	4,500	28

[1] The Pacific cod A season for trawl gear does not open until January 20.
[2] The Pacific cod B season for trawl gear closes November 1.

TABLE 16—FINAL 2010 GOA NON-EXEMPT AMERICAN FISHERIES ACT CATCHER VESSEL (CV) GROUNDFISH HARVEST SIDEBOARD LIMITATIONS

[Values are rounded to nearest metric ton]

Species	Apportionments by season/gear	Area/component	Ratio of 1995–1997 non-exempt AFA CV catch to 1995–1997 TAC	2010 TAC	2010 non-exempt AFA CV sideboard limit
Pollock	A Season	Shumagin (610)	0.6047	5,132	3,103
	January 20–March 10	Chirikof (620)	0.1167	6,927	808
		Kodiak (630)	0.2028	3,972	806
	B Season	Shumagin (610)	0.6047	5,131	3,103
	March 10–May 31	Chirikof (620)	0.1167	8,591	1,003
		Kodiak (630)	0.2028	2,308	468
	C Season	Shumagin (610)	0.6047	6,968	4,214
	August 25–October 1	Chirikof (620)	0.1167	3,428	400
		Kodiak (630)	0.2028	5,634	1,143
	D Season	Shumagin (610)	0.6047	6,968	4,214
	October 1–November 1	Chirikof (620)	0.1167	3,428	400
		Kodiak (630)	0.2028	5,634	1,143
	Annual	WYK (640)	0.3495	1,929	674
		SEO (650)	0.3495	8,280	2,894
Pacific cod	A Season [1]	W inshore	0.1365	12,557	1,714
	January 1–June 10	W offshore	0.1026	1,395	143
		C inshore	0.0689	18,352	1,264
		C offshore	0.0721	2,039	147
	B Season [2]	W inshore	0.1365	8,371	1,143
	September 1–December 31.	W offshore	0.1026	930	95
		C inshore	0.0689	12,235	843
		C offshore	0.0721	1,359	98
	Annual	E inshore	0.0079	2,576	20
		E offshore	0.0078	286	2
Flatfish, deep-water	Annual	W	0.0000	747	0
		C	0.0647	7,405	479
		E	0.0128	1,641	21
Rex sole	Annual	W	0.0007	988	1
		C	0.0384	6,506	250
		E	0.0029	1,333	4
Flathead sole	Annual	W	0.0036	2,000	7
		C	0.0213	5,000	107
		E	0.0009	4,289	4
Flatfish, shallow-water	Annual	W	0.0156	4,500	70
		C	0.0587	13,000	763
		E	0.0126	4,756	60
Arrowtooth flounder	Annual	W	0.0021	8,000	17
		C	0.0280	30,000	840
		E	0.0002	5,000	1
Sablefish	Annual, trawl gear	W	0.0000	305	0
		C	0.0642	925	59
		E	0.0433	209	9
Pacific ocean perch	Annual	W	0.0023	3,710	9
		C	0.0748	8,239	616
		E	0.0466	3,149	147
Shortraker rockfish	Annual	W	0.0000	120	0
		C	0.0218	315	7
		E	0.0110	463	5
Rougheye rockfish	Annual	W	0.0000	126	0
		C	0.0237	842	20
		E	0.0124	329	4
Other rockfish	Annual	W	0.0034	357	1
		C	0.1699	569	97
		E	0.0000	804	0
Northern rockfish	Annual	W	0.0003	1,965	1
		C	0.0277	2,208	61
Pelagic shelf rockfish	Annual	W	0.0001	765	0
		C	0.0000	3,179	0
		E	0.0067	521	3
Thornyhead rockfish	Annual	W	0.0280	267	7
		C	0.0280	860	24
		E	0.0280	783	22
Big skates	Annual	W	0.0063	632	4
		C	0.0063	2,065	13
		E	0.0063	633	4
Longnose skates	Annual	W	0.0063	78	0

TABLE 16—FINAL 2010 GOA NON-EXEMPT AMERICAN FISHERIES ACT CATCHER VESSEL (CV) GROUNDFISH HARVEST SIDEBOARD LIMITATIONS—Continued

[Values are rounded to nearest metric ton]

Species	Apportionments by season/gear	Area/component	Ratio of 1995–1997 non-exempt AFA CV catch to 1995–1997 TAC	2010 TAC	2010 non-exempt AFA CV sideboard limit
		C	0.0063	2,041	13
		E	0.0063	768	5
Other skates	Annual	Gulfwide	0.0063	2,104	13
Demersal shelf rockfish	Annual	SEO	0.0020	362	1
Atka mackerel	Annual	Gulfwide	0.0309	2,000	62
Other species	Annual	Gulfwide	0.0063	4,500	28

[1] The Pacific cod A season for trawl gear does not open until January 20.
[2] The Pacific cod B season for trawl gear closes November 1.

The PSC sideboard limits for non-exempt AFA catcher vessels in the GOA are based on the aggregate retained groundfish catch by non-exempt AFA catcher vessels in each PSC target category from 1995 through 1997 divided by the retained catch of all vessels in that fishery from 1995 through 1997 (§ 679.64(b)(4)). Table 17 lists the final 2009 and 2010 non-exempt AFA catcher vessel halibut PSC limits for vessels using trawl gear in the GOA.

TABLE 17—FINAL 2009 AND 2010 NON-EXEMPT AMERICAN FISHERIES ACT CATCHER VESSEL HALIBUT PROHIBITED SPECIES CATCH (PSC) LIMITS FOR VESSELS USING TRAWL GEAR IN THE GOA

[Values are in metric tons]

Seasonal allowance	Season	Target fishery	Ratio of 1995–1997 non-exempt AFA CV retained catch to total retained catch	2009 and 2010 PSC limit	2009 and 2010 non-exempt AFA CV PSC limit
1	January 20–April 1	shallow-water	0.340	450	153
2	April 1–July 1	deep-water	0.070	100	7
		shallow-water	0.340	100	34
3	July 1–September 1	deep-water	0.070	300	21
		shallow-water	0.340	200	68
4	September 1–October 1	deep-water	0.070	400	28
		shallow-water	0.340	150	51
5	October 1–December 31	deep-water[1]	0.070	0	0
		all targets	0.205	300	61

[1] There is no apportionment of halibut PSC to the deep-water targets in September. However any unused apportionment to the deep-water targets from earlier in the fishing year may be used to support the deep-water targets in September.

Non-AFA Crab Vessel Groundfish Harvest Limitations

Section 680.22 establishes groundfish catch limits for vessels with a history of participation in the Bering Sea snow crab fishery from using the increased flexibility provided by the Crab Rationalization Program to expand their level of participation in the GOA groundfish fisheries. These sideboard limits restrict these vessels' catch to their collective historical landings in each GOA groundfish fishery (except the fixed-gear sablefish fishery). Sideboard limits also will apply to catch made using a License Limitation Program (LLP) license derived from the history of a restricted vessel, even if that LLP license is used on another vessel.

Sideboard limits for non-AFA crab vessels in the GOA are based on their traditional harvest levels of TAC in groundfish fisheries covered by the GOA FMP. Sections 680.22(d) and (e) base the groundfish sideboard limitations in the GOA on the retained catch by non-AFA crab vessels of each sideboard species from 1996 through 2000 divided by the total retained harvest of that species over the same period. The 2009 and 2010 final GOA non-AFA crab vessel groundfish harvest sideboard limits are listed in Tables 18 and 19. All targeted or incidental catch of sideboard species made by non-AFA crab vessels will be deducted from the sideboard limits in Tables 18 and 19.

Vessels exempt from Pacific cod sideboards are those that landed less than 45,359 kilograms of Bering Sea snow crab and more than 500 mt of groundfish (in round weight equivalents) from the GOA between January 1, 1996, and December 31, 2000, and any vessel named on an LLP that was generated in whole or in part by the fishing history of a vessel meeting the criteria in § 680.22(a)(3).

TABLE 18—FINAL 2009 GOA NON-AMERICAN FISHERIES ACT CRAB VESSEL GROUNDFISH HARVEST SIDEBOARD LIMITS

[Values are rounded to nearest metric ton]

Species	Season/gear	Area/component	Ratio of 1996–2000 non-AFA crab vessel catch to 1996–2000 total harvest	2009 TAC	2009 non-AFA crab vessel sideboard limit
Pollock	A Season January 20–March 10	Shumagin (610)	0.0098	3,234	32
		Chirikof (620)	0.0031	4,365	14
		Kodiak (630)	0.0002	2,503	1
	B Season March 10–May 31	Shumagin (610)	0.0098	3,233	32
		Chirikof (620)	0.0031	5,413	17
		Kodiak (630)	0.0002	1,455	0
	C Season August 25–October 1	Shumagin (610)	0.0098	4,391	43
		Chirikof (620)	0.0031	2,160	7
		Kodiak (630)	0.0002	3,550	1
	D Season October 1–November 1	Shumagin (610)	0.0098	4,391	43
		Chirikof (620)	0.0031	2,160	7
		Kodiak (630)	0.0002	3,550	1
	Annual	WYK (640)	0.0000	1,215	0
		SEO (650)	0.0000	8,280	0
Pacific cod	A Season [1] January 1–June 10	W inshore	0.0902	8,735	788
		W offshore	0.2046	970	198
		C inshore	0.0383	12,767	489
		C offshore	0.2074	1,418	294
	B Season [2] September 1–December 31.	W inshore	0.0902	5,823	525
		W offshore	0.2046	647	132
		C inshore	0.0383	8,510	326
		C offshore	0.2074	946	196
	Annual	E inshore	0.0110	1,792	20
		E offshore	0.0000	199	0
Flatfish deep-water	Annual	W	0.0035	706	2
		C	0.0000	6,927	0
		E	0.0000	1,535	0
Rex sole	Annual	W	0.0000	1,007	0
		C	0.0000	6,630	0
		E	0.0000	1,359	0
Flathead sole	Annual	W	0.0002	2,000	0
		C	0.0004	5,000	2
		E	0.0000	4,181	0
Flatfish shallow-water	Annual	W	0.0059	4,500	27
		C	0.0001	13,000	1
		E	0.0000	4,756	0
Arrowtooth flounder	Annual	W	0.0004	8,000	3
		C	0.0001	30,000	3
		E	0.0000	5,000	0
Sablefish	Annual, trawl gear	W	0.0000	328	0
		C	0.0000	998	0
		E	0.0000	227	0
Pacific ocean perch	Annual	W	0.0000	3,713	0
		C	0.0000	8,246	0
		E	0.0000	3,152	0
Shortraker rockfish	Annual	W	0.0013	120	0
		C	0.0012	315	0
		E	0.0009	463	0
Rougheye rockfish	Annual	W	0.0067	125	1
		C	0.0047	833	4
		E	0.0008	326	0
Other rockfish	Annual	W	0.0035	357	1
		C	0.0033	569	2
		E	0.0000	804	0
Northern rockfish	Annual	W	0.0005	2,054	1
		C	0.0000	2,308	0
Pelagic shelf rockfish	Annual	W	0.0017	819	1
		C	0.0000	3,404	0
		E	0.0000	558	0
Thornyhead rockfish	Annual	W	0.0047	267	1
		C	0.0066	860	6
		E	0.0045	783	4
Big skate	Annual	W	0.0392	632	25
		C	0.0159	2,065	33
		E	0.0000	633	0
Longnose skate	Annual	W	0.0392	78	3
		C	0.0159	2,041	32

TABLE 18—FINAL 2009 GOA NON-AMERICAN FISHERIES ACT CRAB VESSEL GROUNDFISH HARVEST SIDEBOARD LIMITS—Continued

[Values are rounded to nearest metric ton]

Species	Season/gear	Area/component	Ratio of 1996–2000 non-AFA crab vessel catch to 1996–2000 total harvest	2009 TAC	2009 non-AFA crab vessel sideboard limit
		E	0.0000	768	0
Other skates	Annual	Gulfwide	0.0176	2,104	37
Demersal shelf rockfish	Annual	SEO	0.0000	362	0
Atka mackerel	Annual	Gulfwide	0.0000	2,000	0
Other species	Annual	Gulfwide	0.0176	4,500	79

[1] The Pacific cod A season for trawl gear does not open until January 20.
[2] The Pacific cod B season for trawl gear closes November 1.

TABLE 19—FINAL 2010 GOA NON-AMERICAN FISHERIES ACT CRAB VESSEL GROUNDFISH HARVEST SIDEBOARD LIMITS

[Values are rounded to nearest metric ton]

Species	Season/gear	Area/component	Ratio of 1996–2000 non-AFA crab vessel catch to 1996–2000 total harvest	2010 TAC	2010 non-AFA crab vessel sideboard limit
Pollock	A Season	Shumagin (610)	0.0098	5,132	50
	January 20–March 10	Chirikof (620)	0.0031	6,927	21
		Kodiak (630)	0.0002	3,972	1
	B Season	Shumagin (610)	0.0098	5,131	50
	March 10–May 31	Chirikof (620)	0.0031	8,591	27
		Kodiak (630)	0.0002	2,308	0
	C Season	Shumagin (610)	0.0098	6,968	68
	August 25–October 1	Chirikof (620)	0.0031	3,428	11
		Kodiak (630)	0.0002	5,634	1
	D Season	Shumagin (610)	0.0098	6,968	68
	October 1–November 1	Chirikof (620)	0.0031	3,428	11
		Kodiak (630)	0.0002	5,634	1
	Annual	WYK (640)	0.0000	1,929	0
		SEO (650)	0.0000	8,280	0
Pacific cod	A Season [1]	W inshore	0.0902	12,557	1,133
	January 1–June 10	W offshore	0.2046	1,395	285
		C inshore	0.0383	18,352	703
		C offshore	0.2074	2,039	423
	B Season [2]	W inshore	0.0902	8,371	755
	September 1–December 31.	W offshore	0.2046	930	190
		C inshore	0.0383	12,235	469
		C offshore	0.2074	1,359	282
	Annual	E inshore	0.0110	2,576	28
		E offshore	0.0000	286	0
Flatfish deep-water	Annual	W	0.0035	747	3
		C	0.0000	7,405	0
		E	0.0000	1,641	0
Rex sole	Annual	W	0.0000	988	0
		C	0.0000	6,506	0
		E	0.0000	1,333	0
Flathead sole	Annual	W	0.0002	2,000	0
		C	0.0004	5,000	2
		E	0.0000	4,289	0
Flatfish shallow-water	Annual	W	0.0059	4,500	27
		C	0.0001	13,000	1
		E	0.0000	4,756	0
Arrowtooth flounder	Annual	W	0.0004	8,000	3
		C	0.0001	30,000	3
		E	0.0000	5,000	0
Sablefish	Annual, trawl gear	W	0.0000	305	0
		C	0.0000	925	0
		E	0.0000	209	0
Pacific ocean perch	Annual	W	0.0000	3,710	0
		C	0.0000	8,239	0
		E	0.0000	3,149	0
Shortraker rockfish	Annual	W	0.0013	120	0
		C	0.0012	315	0
		E	0.0009	463	0
Rougheye rockfish	Annual	W	0.0067	126	1

TABLE 19—FINAL 2010 GOA NON-AMERICAN FISHERIES ACT CRAB VESSEL GROUNDFISH HARVEST SIDEBOARD LIMITS—Continued

[Values are rounded to nearest metric ton]

Species	Season/gear	Area/component	Ratio of 1996–2000 non-AFA crab vessel catch to 1996–2000 total harvest	2010 TAC	2010 non-AFA crab vessel sideboard limit
		C	0.0047	842	4
		E	0.0008	329	0
Other rockfish	Annual	W	0.0035	357	1
		C	0.0033	569	2
		E	0.0000	804	0
Northern rockfish	Annual	W	0.0005	1,965	1
		C	0.0000	2,208	0
Pelagic shelf rockfish	Annual	W	0.0017	765	1
		C	0.0000	3,179	0
		E	0.0000	521	0
Thornyhead rockfish	Annual	W	0.0047	267	1
		C	0.0066	860	6
		E	0.0045	783	4
Big skate	Annual	W	0.0392	632	25
		C	0.0159	2,065	33
		E	0.0000	633	0
Longnose skate	Annual	W	0.0392	78	3
		C	0.0159	2,041	32
		E	0.0000	768	0
Other skates	Annual	Gulfwide	0.0176	2,104	37
Demersal shelf rockfish	Annual	SEO	0.0000	362	0
Atka mackerel	Annual	Gulfwide	0.0000	2,000	0
Other species	Annual	Gulfwide	0.0176	4,500	79

[1] The Pacific cod A season for trawl gear does not open until January 20.
[2] The Pacific cod B season for trawl gear closes November 1.

Rockfish Program Groundfish Sideboard Limitations and Halibut Mortality Limitations

Section 679.82(d)(7) establishes sideboards to limit the ability of participants eligible for the Rockfish Program to harvest fish in fisheries other than the Central GOA rockfish fisheries. The Rockfish Program provides certain economic advantages to harvesters. Harvesters could use this economic advantage to increase their participation in other fisheries, adversely affecting the participants in other fisheries. The final sideboards for 2009 and 2010 limit the total amount of catch that could be taken by eligible harvesters and limit the amount of halibut mortality to historic levels. The sideboard measures are in effect only during the month of July. Traditionally, the Central GOA rockfish fisheries opened in July. The sideboards are designed to restrict fishing during the historical season for the fishery, but allow eligible rockfish harvesters to participate in fisheries before or after the historical rockfish season. The sideboard provisions are discussed in detail in the proposed rule (71 FR 33040, June 7, 2006) and final rule (71 FR 67210, November 20, 2006 and 72 FR 37678, July 11, 2007) for the Rockfish Program. Tables 20 and 21 list the final 2009 and 2010 Rockfish Program harvest limits in the WYK District and the Western GOA. Table 22 lists the final 2009 and 2010 Rockfish Program halibut mortality limits for catcher/processors and catcher vessels.

TABLE 20—FINAL 2009 ROCKFISH PROGRAM HARVEST LIMITS BY SECTOR FOR WEST YAKUTAT DISTRICT AND WESTERN REGULATORY AREA BY THE CATCHER/PROCESSOR (CP) AND CATCHER VESSEL (CV) SECTORS

[Values are rounded to nearest metric ton]

Management area	Fishery	CP sector (% of TAC)	CV sector (% of TAC)	2009 TAC	2009 CP limit	2009 CV limit
West Yakutat District	Pelagic shelf rockfish	72.4	1.7	234	169	4
	Pacific ocean perch	76.0	2.9	1,108	842	32
Western Regulatory Area	Pelagic shelf rockfish	63.3	0.0	819	518	0
	Pacific ocean perch	61.1	0.0	3,713	2,269	0
	Northern rockfish	78.9	0.0	2,054	1,621	0

TABLE 21—FINAL 2010 ROCKFISH PROGRAM HARVEST LIMITS BY SECTOR FOR WEST YAKUTAT DISTRICT AND WESTERN REGULATORY AREA BY THE CATCHER/PROCESSOR (CP) AND CATCHER VESSEL (CV) SECTORS

[Values are rounded to nearest metric ton]

Management area	Fishery	CP sector (% of TAC)	CV sector (% of TAC)	2010 TAC	2010 CP limit	2010 CV limit
West Yakutat District	Pelagic shelf rockfish	72.4	1.7	219	159	4

TABLE 21—FINAL 2010 ROCKFISH PROGRAM HARVEST LIMITS BY SECTOR FOR WEST YAKUTAT DISTRICT AND WESTERN REGULATORY AREA BY THE CATCHER/PROCESSOR (CP) AND CATCHER VESSEL (CV) SECTORS—Continued

[Values are rounded to nearest metric ton]

Management area	Fishery	CP sector (% of TAC)	CV sector (% of TAC)	2010 TAC	2010 CP limit	2010 CV limit
Western Regulatory Area	Pacific ocean perch	76.0	2.9	1,107	841	32
	Pelagic shelf rockfish	63.3	0.0	765	484	0
	Pacific ocean perch	61.1	0.0	3,710	2,267	0
	Northern rockfish	78.9	0.0	1,965	1,550	0

TABLE 22—FINAL 2009 AND 2010 ROCKFISH PROGRAM HALIBUT MORTALITY LIMITS FOR THE CATCHER/PROCESSOR AND CATCHER VESSEL SECTORS

[Values are rounded to nearest metric ton]

Sector	Shallow-water complex halibut PSC sideboard ratio (in percent)	Deep-water complex halibut PSC sideboard ratio (in percent)	Annual halibut mortality limit (mt)	Annual shallow-water complex halibut PSC sideboard limit (mt)	Annual deep-water complex halibut PSC sideboard limit (mt)
Catcher/processor	0.54	3.99	2,000	11	80
Catcher vessel	6.32	1.08	2,000	126	22

Gulf of Alaska Amendment 80 Vessel Groundfish Harvest and PSC Limits

Amendment 80 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area, hereinafter referred to as the ''Amendment 80 Program,'' established a limited access privilege program for the non-AFA trawl catcher processor sector. In order to limit the ability of participants eligible for the Amendment 80 Program to expand their harvest efforts in the GOA, the Amendment 80 Program established groundfish and halibut PSC catch limits for Amendment 80 Program participants in the GOA.

Section 679.92 establishes groundfish harvesting sideboard limits on all Amendment 80 Program vessels, other than the F/V GOLDEN FLEECE, to amounts no greater than the limits shown in Table 37 to part 679. Sideboard limits in the GOA are for pollock in the Western and Central Regulatory Areas and in the WYK District, for Pacific cod gulfwide, for Pacific ocean perch and pelagic shelf rockfish in the Western Regulatory Area and WYK District, and for northern rockfish in the Western Regulatory Area. The harvest of Pacific ocean perch, pelagic shelf rockfish, and northern rockfish in the Central Regulatory Area of the GOA is subject to regulation under the Central GOA Rockfish Program. Amendment 80 Program vessels not qualified under the Rockfish Program are excluded from directed fishing for these rockfish species in the Central GOA. Under regulations, the F/V GOLDEN FLEECE is prohibited from directed fishing for pollock, Pacific cod, Pacific ocean perch, pelagic shelf rockfish, and northern rockfish in the GOA. These sideboard limits are necessary to protect the interests of fishermen who do not directly benefit from Amendment 80 from expansion into their fisheries by the Amendment 80 Program participants.

Groundfish sideboard limits for Amendment 80 Program vessels operating in the GOA are based on their average aggregate harvests from 1998 to 2004. Tables 23 and 24 list the final 2009 and 2010 sideboard limits for Amendment 80 Program vessels, respectively. All targeted or incidental catch of sideboard species made by Amendment 80 Program vessels will be deducted from the sideboard limits in Tables 23 and 24.

TABLE 23—FINAL 2009 GOA GROUNDFISH SIDEBOARD LIMITS FOR AMENDMENT 80 PROGRAM VESSELS

[Values are rounded to nearest metric ton]

Species	Apportionments and allocations by season	Area	Ratio of amendment 80 program sector vessels 1998–2004 catch to TAC	2009 TAC (mt)	2009 amendment 80 program vessel sideboard limits (mt)
Pollock	A Season January 20–February 25.	Shumagin (610)	0.003	3,234	10
		Chirikof (620)	0.002	4,365	9
		Kodiak (630)	0.002	2,503	5
	B Season March 10–May 31	Shumagin (610)	0.003	3,233	10
		Chirikof (620)	0.002	5,413	11
		Kodiak (630)	0.002	1,455	3
	C Season August 25–September 15.	Shumagin (610)	0.003	4,391	13
		Chirikof (620)	0.002	2,160	4
		Kodiak (630)	0.002	3,550	7
	D Season October 1–November 1	Shumagin (610)	0.003	4,391	13
		Chirikof (620)	0.002	2,160	4
		Kodiak (630)	0.002	3,550	7

TABLE 23—FINAL 2009 GOA GROUNDFISH SIDEBOARD LIMITS FOR AMENDMENT 80 PROGRAM VESSELS—Continued

[Values are rounded to nearest metric ton]

Species	Apportionments and allocations by season	Area	Ratio of amendment 80 program sector vessels 1998–2004 catch to TAC	2009 TAC (mt)	2009 amendment 80 program vessel sideboard limits (mt)
	Annual	WYK (640)	0.002	1,215	2
Pacific cod	A Season [1]	W	0.020	9,705	194
	January 1–June 10	C	0.044	14,185	624
	B Season [2]	W	0.020	6,470	129
	September 1–December 31.	C	0.044	9,456	416
	Annual	WYK	0.034	1,991	68
Pacific ocean perch	Annual	W	0.994	3,713	3,691
		WYK	0.961	1,108	1,065
Northern rockfish	Annual	W	1.000	2,054	2,054
		W	0.764	819	626
Pelagic shelf rockfish	Annual	WYK	0.896	234	210

[1] The Pacific cod A season for trawl gear does not open until January 20.
[2] The Pacific cod B season for trawl gear closes November 1.

TABLE 24—FINAL 2010 GOA GROUNDFISH SIDEBOARD LIMITS FOR AMENDMENT 80 PROGRAM VESSELS

[Values are rounded to nearest metric ton]

Species	Apportionments and allocations by season	Area	Ratio of Amendment 80 Program sector vessels 1998–2004 catch to TAC	2010 TAC (mt)	2010 Amendment 80 Program vessel sideboard limits (mt)
Pollock	A Season	Shumagin (610)	0.003	5,132	15
	January 20–February 25.	Chirikof (620)	0.002	6,927	14
		Kodiak (630)	0.002	3,972	8
	B Season	Shumagin (610)	0.003	5,131	15
	March 10–May 31	Chirikof (620)	0.002	8,591	17
		Kodiak (630)	0.002	2,308	5
	C Season	Shumagin (610)	0.003	6,968	21
	August 25–September 15.	Chirikof (620)	0.002	3,428	7
		Kodiak (630)	0.002	5,634	11
	D Season	Shumagin (610)	0.003	6,968	21
	October 1–November 1	Chirikof (620)	0.002	3,428	7
		Kodiak (630)	0.002	5,634	11
	Annual	WYK (640)	0.002	1,929	4
Pacific cod	A Season [1]	W	0.020	13,952	279
	January 1–June 10	C	0.044	20,392	897
	B Season [2]	W	0.020	9,302	186
	September 1–December 31.	C	0.044	13,594	598
	Annual	WYK	0.034	2,862	97
Pacific ocean perch	Annual	W	0.994	3,710	3,688
		WYK	0.961	1,107	1,064
Northern rockfish	Annual	W	1.000	1,965	1,965
Pelagic shelf rockfish	Annual	W	0.764	765	584
		WYK	0.896	219	196

[1] The Pacific cod A season for trawl gear does not open until January 20.
[2] The Pacific cod B season for trawl gear closes November 1.

The PSC sideboard limits for Amendment 80 Program vessels in the GOA are based on the historic use of halibut PSC by Amendment 80 Program vessels in each PSC target category from 1998 through 2004 (Table 38 to 50 CFR part 679). These values are slightly lower than the average historic use to accommodate two factors: allocation of halibut PSC Cooperative Quotas (CQs) under the Central GOA Rockfish Program and the exemption of the F/V GOLDEN FLEECE from this restriction. Table 25 lists the final 2009 and 2010 halibut PSC limits for Amendment 80 Program vessels.

TABLE 25—FINAL 2009 AND 2010 HALIBUT PROHIBITED SPECIES CATCH (PSC) LIMITS FOR AMENDMENT 80 PROGRAM VESSELS IN THE GOA

[Values are rounded to nearest metric ton]

Seasonal allowance	Season	Target fishery	Historic Amendment 80 Program use of the annual halibut PSC limit catch	2009 and 2010 annual PSC limit (mt)	2009 and 2010 Amendment 80 Program vessel PSC limit (mt)
1	January 20–April 1	shallow-water	0.0048	2,000	10
		deep-water	0.0115	2,000	23
2	April 1–July 1	shallow-water	0.0189	2,000	38
		deep-water	0.1072	2,000	214
3	July 1–September 1	shallow-water	0.0146	2,000	29
		deep-water	0.0521	2,000	104
4	September 1–October 1	shallow-water	0.0074	2,000	15
		deep-water	0.0014	2,000	3
5	October 1–December 31	shallow-water	0.0227	2,000	45
		deep-water	0.0371	2,000	74

Directed Fishing Closures

Pursuant to § 679.20(d)(1)(i), if the Regional Administrator determines (1) that any allocation or apportionment of a target species or ''other species'' category allocated or apportioned to a fishery will be reached; or (2) with respect to pollock and Pacific cod, that an allocation or apportionment to an inshore or offshore component allocation will be reached, the Regional Administrator may establish a directed fishing allowance (DFA) for that species or species group. If the Regional Administrator establishes a DFA and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified GOA regulatory area or district § 679.20(d)(1)(iii)).

The Regional Administrator has determined that the following TAC amounts in Table 26 are necessary as incidental catch to support other anticipated groundfish fisheries for the 2009 and 2010 fishing years.

TABLE 26—2009 AND 2010 DIRECTED FISHING CLOSURES IN THE GOA

[Amounts for incidental catch in other directed fisheries are in metric tons]

Target	Area/component/gear	Incidental catch amount
Atka mackerel	all	2,000
Thornyhead rockfish	all	1,910
Shortraker rockfish	all	898
Rougheye rockfish	all	1,284 (2009) 1,297 (2010)
Other rockfish	all	1,730
Sablefish	all/trawl	1,553 (2009) 1,439 (2010)
Big skates	all	3,300
Longnose skates	all	2,887
Other skates	all	2,104
Pollock	all/offshore	unknown [1]

[1] Pollock is closed to directed fishing in the GOA by the offshore component under § 679.20(a)(6)(i).

Consequently, in accordance with § 679.20(d)(1)(i), the Regional Administrator establishes the DFA for the species or species groups listed in Table 26 as zero. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing for those species, areas, gear types, and components in the GOA listed in Table 26. These closures will remain in effect through 2400 hrs, A.l.t., December 31, 2010.

Section 679.64(b)(5) provides for management of AFA catcher vessel groundfish harvest limits and PSC bycatch limits using directed fishing closures and PSC closures according to procedures set out at § 679.20(d)(1)(iv), 679.21(d)(8), and 679.21(e)(3)(v). The Regional Administrator has determined that, in addition to the closures listed above, many of the non-exempt AFA catcher vessel sideboard limits listed in Tables 15 and 16 are necessary as incidental catch to support other anticipated groundfish fisheries for the 2009 and 2010 fishing years. In accordance with § 679.20(d)(1)(iv), the Regional Administrator sets the DFAs for the species and species groups in Table 27 at zero. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing by non-exempt AFA catcher vessels in the GOA for the species and specified areas set out in Table 27. These closures will remain in effect through 2400 hrs, A.l.t., December 31, 2010.

TABLE 27—2009 AND 2010 NON-EXEMPT AFA CATCHER VESSEL SIDEBOARD DIRECTED FISHING CLOSURES FOR ALL GEAR TYPES IN THE GOA

[Amounts for incidental catch in other directed fisheries are in metric tons]

Species	Regulatory area/district	Incidental catch amount
Pacific cod	Eastern	14 (inshore) and 2 (offshore) in 2009. 20 (inshore) and 2 (offshore) in 2010.
Deep-water flatfish	Western	0.
Rex sole	Eastern and Western	4 and 1.
Flathead sole	Eastern and Western	4 and 7.
Arrowtooth flounder	Eastern and Western	1 and 17.
Pacific ocean perch	Western	9.
Northern rockfish	Western	1.
Pelagic shelf rockfish	Entire GOA	0 (W), 0 (C), 4 (E) in 2009. 0 (W), 0 (C), 3 (E) in 2010.
Demersal shelf rockfish	SEO District	1.

Section 680.22 provides for the management of non-AFA crab vessel groundfish harvest limits using directed fishing closures in accordance with § 680.22(e)(2) and (3). The Regional Administrator has determined that the non-AFA crab vessel sideboards listed in Tables 18 and 19 are insufficient to support a directed fishery and set the sideboard DFA at zero, with the exception of Pacific cod in the Western and Central Regulatory Areas. Therefore, in accordance with § 680.22(e)(3), NMFS is prohibiting directed fishing by non-AFA crab vessels in the GOA for all species and species groups listed in Tables 18 and 19, with the exception of Pacific cod in the Western and Central Regulatory Areas.

Section 679.82 provides for the management of Rockfish Program sideboard limits using directed fishing closures in accordance with § 679.82(d)(7)(i) and (ii). The Regional Administrator has determined that the catcher vessel sideboards listed in Tables 20 and 21 are insufficient to support a directed fishery and set the sideboard DFA at zero. Therefore, NMFS is closing directed fishing for pelagic shelf rockfish and Pacific ocean perch in the WYK District and the Western Regulatory Area and for northern rockfish in the Western Regulatory Area by catcher vessels participating in the Central GOA Rockfish Program during the month of July in 2009 and 2010. These closures will remain in effect through 2400 hrs, A.l.t., December 31, 2010.

NMFS adjusted the 2009 TAC amounts for the GOA pollock and Pacific cod fisheries on January 5, 2009 (74 FR 233) because NMFS determined these TACs were incorrectly specified in the 2008 and 2009 GOA harvest specifications published February 27, 2008 (73 FR 10562). This adjustment will ensure the GOA pollock and Pacific cod TACs do not exceed the appropriate amounts, based on the best available scientific information for pollock and Pacific cod in the GOA. Closures implemented under the 2008 and 2009 Gulf of Alaska harvest specifications for groundfish (73 FR 10562, February 27, 2008) remain effective under authority of these final 2009 and 2010 harvest specifications, and are posted at the following Web sites: *http://www.alaskafisheries.noaa.gov/index/infobulletins/infobulletins.asp?Yr=2009*, and *http://www.alaskafisheries.noaa.gov/2009/status.htm.* While these closures are in effect, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a fishing trip. These closures to directed fishing are in addition to closures and prohibitions found in regulations at 50 CFR part 679. NMFS may implement other closures during the 2009 and 2010 fishing years as necessary for effective conservation and management.

Response to Comments

NMFS received one letter of comment (three comments) in response to the proposed 2009 and 2010 harvest specifications. These comments are summarized and responded to below.

Comment 1: NMFS administers the federal fisheries off Alaska for the benefit of a few Alaska fishermen, not for the benefit of the nation or all U.S. citizens.

Response: NMFS manages the Gulf of Alaska groundfish fisheries on behalf of all United States citizens, as well as on behalf of the commercial fishing industry. Companies involved in this industry are based in various states, including Alaska. The individuals participating in these fisheries reside in other states besides Alaska. NMFS's primary objective in the harvest specifications process is the conservation and management of fish resources for the Nation as a whole. The annual harvest specifications process is a key element to ensuring that Alaska fisheries are sustainably managed in a controlled and orderly manner.

Comment 2: Commercial fishing activities off of Alaska have an adverse and detrimental effect on marine mammals and other marine resources.

Response: The EIS prepared for the Alaska groundfish fisheries identified a preferred harvest strategy for groundfish and concluded that the preferred harvest strategy, under existing regulations, would have no lasting adverse impacts on marine mammals and other marine life. Further, pursuant to the Endangered Species Act, NMFS consults to ensure that federal actions, including this one, do not jeopardize the continued existence of any endangered or threatened marine mammal species. Additional protections for marine mammals are provided under the Marine Mammal Protection Act. Any taking of a marine mammal, such as harassment or shooting, is a violation and a potentially prosecutable offense.

Comment 3: Commercial fishing is killing off fish and other marine life to the point of extinction.

Response: As previously mentioned, the harvest specifications process is intended to foster conservation and management of marine resources. This process incorporates the best available scientific information from the most recent stock assessment and fisheries evaluation reports prepared by multi-disciplinary teams of scientists. Such reports contain the most recent scientific information on the condition of various groundfish stocks, as well as the condition of other ecosystem components. None of the NMFS-managed groundfish species off Alaska is overfished or subject to overfishing. The Council and NMFS annually respond to new developments in the natural environment as part of the harvest specifications process.

Classification

NMFS has determined that these final harvest specifications are consistent with the FMP and with the Magnuson-Stevens Act and other applicable laws.

This action is authorized under 50 CFR 679.20 and is exempt from review under Executive Order 12866.

NMFS prepared a Final EIS for the Alaska Groundfish Harvest Specifications and made it available to the public on January 12, 2007 (72 FR 1512). On February 13, 2007, NMFS issued the Record of Decision (ROD) for the Final EIS. In January 2009, NMFS prepared a Supplemental Information Report (SIR) for this action. Copies of the Final EIS, ROD, and SIR for this action are available from NMFS (*see* **ADDRESSES**). The Final EIS analyzes the environmental consequences of the groundfish harvest specifications and alternative harvest strategies on resources in the action area. The SIR evaluates the need to prepare a Supplemental EIS (SEIS) for the 2009 and 2010 groundfish harvest specifications.

A SEIS should be prepared if (1) the agency makes substantial changes in the proposed action that are relevant to environmental concerns, or (2) significant new circumstances or information exist relevant to environmental concerns and bearing on the proposed action or its impacts (40 CFR 1502.9(c)(1)). After reviewing the information contained in the SIR and SAFE reports, the Administrator, Alaska Region, has determined that (1) approval of the 2009 and 2010 harvest specifications, which were set according to the preferred harvest strategy in the Final EIS, do not constitute a change in the action; and (2) there are no significant new circumstances or information relevant to environmental concerns and bearing on the action or its impacts. Additionally, the 2009 and 2010 harvest specifications will result in environmental impacts within the scope of those analyzed and disclosed in the Final EIS. Therefore, supplemental National Environmental Protection Act (NEPA) documentation is not necessary to implement the 2009 and 2010 harvest specifications.

The proposed harvest specifications were published in the **Federal Register** on December 2, 2008 (73 FR 73222). An Initial Regulatory Flexibility Analysis (IRFA) was prepared to evaluate the impacts on small entities of alternative harvest strategies for the groundfish fisheries in the Exclusive Economic Zone off Alaska on small entities. The public comment period ended on January 2, 2009. No comments were received regarding the IRFA or the economic impacts of this action. A Final Regulatory Flexibility Analysis (FRFA) was prepared that meets the statutory requirements of the Regulatory Flexibility Act of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601–612). Copies of the IRFA and FRFA prepared for this action are available from NMFS, Alaska Region (*see* **ADDRESSES**).

Each year, NMFS promulgates a rule establishing the harvest specifications pursuant to the adopted harvest strategy. While the harvest specification numbers may change from year to year, the harvest strategy for establishing those numbers does not change. Therefore, the impacts discussed in the IRFA are essentially the same. NMFS considers the annual rulemakings establishing the harvest specification numbers to be a series of closely related rules stemming from the harvest strategy and representing one rule for purposes of the Regulatory Flexibility Act (5 U.S.C. 605(c)). A summary of the FRFA follows.

The action under consideration is a harvest strategy to govern the harvest of groundfish in the GOA. The preferred alternative is the status quo harvest strategy in which TACs fall within the range of ABCs recommended by the Council's harvest specifications process and TACs recommended by the Council. This action is taken in accordance with the FMP prepared by the Council pursuant to the Magnuson-Stevens Act.

The directly regulated small entities include approximately 747 small catcher vessels and fewer than 20 small catcher/processors. The entities directly regulated by this action are those that harvest groundfish in the EEZ of the GOA, and in parallel fisheries within State of Alaska waters. These include entities operating catcher vessels and catcher/processor vessels within the action area, and entities receiving direct allocations of groundfish. Catcher vessels and catcher/processors were considered to be small entities if they had annual gross receipts of $4 million per year or less from all economic activities, including the revenue of their affiliated operations. Data from 2005 were the most recent available to determine the number of small entities.

Estimates of first wholesale gross revenues for the GOA were used as indices of the potential impacts of the alternative harvest strategies on small entities. An index of revenues was projected to decline under the preferred alternative due to declines in ABCs for key species in the GOA. The index of revenues declined by less than 4 percent between 2007 and 2008 and by less than one percent between 2007 and 2009.

The preferred alternative (Alternative 2) was compared to four other alternatives. These included Alternative 1, which would have set TACs to generate fishing rates equal to the maximum permissible ABC (if the full TAC were harvested), unless the sum of TACs exceeded the GOA OY, in which case harvests would be limited to the OY. Alternative 3 would have set TACs to produce fishing rates equal to the most recent five-year average fishing rate. Alternative 4 would have set TACs to equal the lower limit of the GOA OY range. Alternative 5 would have set TACs equal to zero. Alternative 5 is the (no action) alternative.

Alternatives 3, 4, and 5 were all associated with smaller levels for important fishery TACs than Alternative 2. Estimated total first wholesale gross revenues were used as an index of potential adverse impacts to small entities. As a consequence of the lower TAC levels, Alternatives 3, 4, and 5 all had smaller of these first wholesale revenue indices than Alternative 2. Thus, Alternatives 3, 4, and 5 had greater adverse impacts on small entities. Alternative 1 appeared to generate higher values of the gross revenue index for fishing operations in the GOA than Alternative 2. A large part of the Alternative 1 GOA revenue appears to be due to the assumption that the full Alternative 1 TAC would be harvested. This increased revenue is due to increases in flatfish TACs that were much higher for Alternative 1 than for Alternative 2. In recent years, halibut bycatch constraints in these fisheries have kept actual flatfish catches from reaching Alternative 1 levels. Therefore, a large part of the revenues associated with Alternative 1 is unlikely to occur. Also, Alternative 2 TACs are constrained by the ABCs the Plan Teams and SSC are likely to recommend to the Council on the basis of a full consideration of biological issues. These ABCs are often less than Alternative 1's maximum permissible ABCs. Therefore higher TACs under Alternative 1 may not be consistent with prudent biological management of the resource. For these reasons, Alternative 2 is the preferred alternative.

This action does not modify recordkeeping or reporting requirements, or duplicate, overlap, or conflict with any Federal rules.

Adverse impacts on marine mammals resulting from fishing activities conducted under this rule are discussed in the Final EIS (*see* **ADDRESSES**).

Pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator for Fisheries,

NOAA, finds good cause to waive the 30-day delay in effectiveness for this rule. Plan Team review occurred in November 2008, and Council recommendations were not received until December 2008, so NMFS could not undertake review and development until January 2009. For all fisheries not currently closed because the TACs established under the 2008 and 2009 final harvest specifications (73 FR 10562, February 27, 2008) were not reached, the likely possibility exists that they will be closed prior to the expiration of a 30-day delayed effectiveness period because their TACs could be reached. Certain fisheries, such as those for pollock and Pacific cod are intensive, fast-paced fisheries. Other fisheries, such as those for flatfish, rockfish, and ''other species,'' are critical as directed fisheries and as incidental catch in other fisheries. U.S. fishing vessels have demonstrated the capacity to catch the TAC allocations in these fisheries. Any delay in allocating the final TACs in these fisheries would cause disruption to the industry and potential economic harm through unnecessary discards. Determining which fisheries may close is impossible because these fisheries are affected by several factors that cannot be predicted in advance, including fishing effort, weather, movement of fishery stocks, and market price. Furthermore, the closure of one fishery has a cascading effect on other fisheries by freeing-up fishing vessels, allowing them to move from closed fisheries to open ones, increasing the fishing capacity in those open fisheries and causing them to close at an accelerated pace.

If the final harvest specifications are not effective by March 21, 2009, which is the start of the 2009 Pacific halibut season as specified by the IPHC, the hook-and-line sablefish fishery will not begin concurrently with the Pacific halibut season. This would result in the needless discard of sablefish that are caught along with Pacific halibut as both hook-and-line sablefish and Pacific halibut are managed under the same IFQ program. Immediate effectiveness of the final 2009 and 2010 harvest specifications will allow the sablefish fishery to begin concurrently with the Pacific halibut season. Also, the immediate effectiveness of this action is required to provide consistent management and conservation of fishery resources based on the best available scientific information, and to give the fishing industry the earliest possible opportunity to plan its fishing operations. Therefore NMFS finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3).

Small Entity Compliance Guide

The following information is a plain language guide to assist small entities in complying with this final rule as required by the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule's primary purpose is to announce the 2009 and 2010 final harvest specifications and prohibited species bycatch allowances for the groundfish fisheries of the GOA. This action is necessary to establish harvest limits and associated management measures for groundfish during the 2009 and 2010 fishing years and to accomplish the goals and objectives of the FMP. This action affects all fishermen who participate in the GOA fisheries. The specific amounts of OFL, ABC, TAC, and PSC are provided in tables to assist the reader. NMFS will announce closures of directed fishing in the **Federal Register** and information bulletins released by the Alaska Region. Affected fishermen should keep themselves informed of such closures.

Authority: 16 U.S.C. 773 *et seq.*; 16 U.S.C. 1540(f), 1801 *et seq.*; 16 U.S.C. 3631 *et seq.*; Pub. L. 105–277; Pub. L. 106–31; Pub. L. 106–554; Pub. L. 108–199; Pub. L. 108–447; Pub. L. 109–241; Pub. L. 109–479.

Dated: February 9, 2009.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. E9–3295 Filed 2–13–09; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0810141351–9087–02]

RIN 0648–XL28

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Final 2009 and 2010 Harvest Specifications for Groundfish

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

ACTION: Final rule; closures.

SUMMARY: NMFS announces final 2009 and 2010 harvest specifications and prohibited species catch allowances for the groundfish fishery of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to establish harvest limits for groundfish during the 2009 and 2010 fishing years and to accomplish the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP). The intended effect of this action is to conserve and manage the groundfish resources in the BSAI in accordance with the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: Effective from 1200 hrs, Alaska local time (A.l.t.), February 17, 2009, through 2400 hrs, A.l.t., December 31, 2010.

ADDRESSES: Copies of the Final Alaska Groundfish Harvest Specifications Environmental Impact Statement (EIS), Record of Decision (ROD), Supplementary Information Report (SIR) to the EIS, and Final Regulatory Flexibility Analysis (FRFA) prepared for this action are available on the Alaska Region Web site at *http://www.alaskafisheries.noaa.gov.* Printed copies can be obtained from the Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Sebastian. Copies of the 2008 Stock Assessment and Fishery Evaluation (SAFE) report for the groundfish resources of the Bering Sea and Aleutian Islands management area (BSAI) dated November 2008, are available from the North Pacific Fishery Management Council, West 4th Avenue, Suite 306, Anchorage, AK 99510–2252, phone 907–271–2809, or from its Web site at *http://www.alaskafisheries.noaa.gov/npfmc.*

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7269, or e-mail *steven.whitney@noaa.gov.*

SUPPLEMENTARY INFORMATION: Federal regulations at 50 CFR part 679 implement the FMP and govern the groundfish fisheries in the BSAI. The North Pacific Fishery Management Council (Council) prepared the FMP, and NMFS approved it under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). General regulations governing U.S. fisheries also appear at 50 CFR part 600.

The FMP and its implementing regulations require NMFS, after consultation with the Council, to specify the total allowable catch (TAC) for each target species and for the ''other species'' category, and the sum must be within the optimum yield (OY) range of 1.4 million to 2.0 million metric tons (mt) (see § 679.20(a)(1)(i)). NMFS also must specify apportionments of TACs, prohibited species catch (PSC)

allowances, and prohibited species quota (PSQ) reserves established by § 679.21, seasonal allowances of pollock, Pacific cod, and Atka mackerel TAC, Amendment 80 allocations, and Community Development Quota (CDQ) reserve amounts established by § 679.20(b)(1)(ii). The final harvest specifications set forth in Tables 1 through 16 of this action satisfy these requirements. The sum of TACs for 2009 is 1,681,586 mt and for 2010 is 2,000,000 mt.

Section 679.20(c)(3) further requires NMFS to consider public comment on the proposed annual TACs and apportionments thereof and the proposed PSC allowances, and to publish final harvest specifications in the **Federal Register**. The proposed 2009 and 2010 harvest specifications and PSC allowances for the groundfish fishery of the BSAI were published in the **Federal Register** on December 10, 2008 (73 FR 75059). Comments were invited and accepted through January 9, 2009. NMFS received three letters with 30 comments on the proposed harvest specifications. These comments are summarized and responded to in the Response to Comments section of this rule. NMFS consulted with the Council on the final 2009 and 2010 harvest specifications during the December 2008 Council meeting in Anchorage, AK. After considering public comments, as well as biological and economic data that were available at the Council's December meeting, NMFS is implementing the final 2009 and 2010 harvest specifications as recommended by the Council.

Acceptable Biological Catch (ABC) and TAC Harvest Specifications

The final ABC levels are based on the best available biological and socioeconomic information, including projected biomass trends, information on assumed distribution of stock biomass, and revised technical methods used to calculate stock biomass. In general, the development of ABCs and overfishing levels (OFLs) involves sophisticated statistical analyses of fish populations. The FMP specifies a series of six tiers based on the level of reliable information available to fishery scientists. Tier one represents the highest level of information quality available while tier six represents the lowest level of information quality available.

In December 2008, the Scientific and Statistical Committee (SSC), Advisory Panel (AP), and Council reviewed current biological information about the condition of the BSAI groundfish stocks. The Council's Plan Team compiled and presented this information in the 2008 SAFE report for the BSAI groundfish fisheries, dated November 2008. The SAFE report contains a review of the latest scientific analyses and estimates of each species' biomass and other biological parameters, as well as summaries of the available information on the BSAI ecosystem and the economic condition of groundfish fisheries off Alaska. The SAFE report is available for public review (see **ADDRESSES**). From these data and analyses, the Plan Team estimates an OFL and ABC for each species or species category.

In December 2008, the SSC, AP, and Council reviewed the Plan Team's recommendations. Except for BSAI Pacific cod and Aleutian Islands pollock, the SSC, AP, and Council endorsed the Plan Team's ABC recommendations. For 2009 and 2010, the SSC recommended higher Pacific cod OFLs and ABCs than the OFLs and ABCs recommended by the Plan Team. The Plan Team chose values between the two best performing models. However, the SSC chose the best performing model, and did not see a need to adjust that model's estimates downward. For Aleutian Island pollock, the Plan Team adopted recommendations from the Center of Independent Experts to include survey data east of Adak. The SSC concluded that this data should be included. This was due to uncertainties in the spatial stock structure in the region, the variation of length compositions across the area, the concentration of survey data along the eastern edge of the region in the early survey years, and additional evidence that these pollock may be from the Bogoslof or EBS stocks, rather than the Aleutian Island stock. The elimination of this survey data resulted in higher OFL and ABC values. The Council adopted the ABCs recommended by the SSC.

The Plan Team, SSC, AP, and Council recommended that total removals of Pacific cod from the BSAI not exceed ABC recommendations. In 2007, the Board of Fisheries for the State of Alaska (State) established a guideline harvest level (GHL) west of 170 degrees west longitude in the AI subarea equal to 3 percent of the Pacific cod ABC in the BSAI. Accordingly, the Council recommended that the 2009 and 2010 Pacific cod TACs be adjusted downward from the ABCs by amounts equal to the 2009 and 2010 GHLs.

The final TAC recommendations were based on the ABCs as adjusted for other biological and socioeconomic considerations, including maintaining the sum of the TACs within the required OY range of 1.4 million to 2.0 million mt. The Council adopted the AP's 2009 and 2010 TAC recommendations. None of the Council's recommended TACs for 2009 or 2010 exceeds the final 2009 or 2010 ABCs for any species category. The 2009 and 2010 harvest specifications approved by the Secretary of Commerce (Secretary) are unchanged from those recommended by the Council and are consistent with the preferred harvest strategy alternative in the EIS. NMFS finds that the Council's recommended OFLs, ABCs, and TACs are consistent with the biological condition of groundfish stocks as described in the 2008 SAFE report that was approved by the Council.

Other Actions Potentially Affecting the 2009 and 2010 Harvest Specifications

The final rule implementing Amendment 73 to the FMP was published in the **Federal Register** on December 31, 2008 (73 FR 80307). Amendment 73 removes dark rockfish from the ''other rockfish'' category in the FMP in order to allow the State of Alaska (State) to assume management of dark rockfish. This action is necessary to allow the State to implement more responsive, regionally based management measures than are currently possible under the FMP. Based on the approval of Amendment 73, the Council recommended final 2009 and 2010 harvest specifications for BSAI groundfish.

The Council is considering a proposal that would allocate the Pacific cod TAC by Bering Sea subarea and Aleutian Islands (AI) subarea instead of a combined BSAI TAC, although associated fishery management implications would require more time to assess and resolve. As a result, a Pacific cod split between subareas has not been established for 2009 or 2010. Additional proposals being developed by the Plan Team for Council consideration would separate some species from the ''other species'' category so that individual OFLs, ABCs, and TACs may be established for these species. Another would allocate the ABC for rougheye rockfish by Bering Sea subarea and Aleutian Islands (AI) subarea instead of a combined BSAI ABC.

Changes From the Proposed 2009 and 2010 Harvest Specifications in the BSAI

In October 2008, the Council made its recommendations for the proposed 2009 and 2010 harvest specifications (73 FR 75059, December 10, 2008) based largely on information contained in the 2007 SAFE report for the BSAI groundfish fisheries. The 2008 SAFE report, which was not available when the Council

made its recommendations in October 2008, contains the best and most recent scientific information on the condition of the groundfish stocks. In December 2008, the Council considered the 2008 SAFE report in making its recommendations for the final 2009 and 2010 harvest specifications. Based on the 2008 SAFE report, the sum of the 2009 and 2010 recommended final TACs for the BSAI (1,681,586 mt for 2009 and 2,000,000 mt for 2010) is lower than the sum of the proposed 2009 TACs and higher than the sum of the proposed 2010 TACs (1,824,204 mt each year). Compared to the proposed 2009 TACs, the Council's final TAC recommendations increase for species when sufficient information supports a larger TAC. This increases fishing opportunities for fishermen and adds economic benefits to the nation. These species include BSAI Atka mackerel, flathead sole, Pacific cod, rock sole, and Greenland turbot. The Council reduced TAC levels to provide greater protection for several species including Bering Sea subarea pollock, yellowfin sole, ''other flatfish,'' and Pacific ocean perch.

The largest TAC reduction was for Bering Sea subarea pollock. The 2009 Bering Sea subarea pollock ABC and the corresponding TAC were reduced 185,000 mt below the proposed rule due to the addition of new survey and catch data incorporated into the pollock assessment models after the Council recommended the proposed harvest specifications. The reduction in the 2009 ABC and corresponding TAC is a consequence of low recruitment in the years 2002 through 2005. The assessment model remains unchanged and the stock still is in tier 1, as recommended by the SSC. Conversely, the new survey data increased the 2010 Bering Sea subarea pollock ABC and TAC by 230,000 mt. This increase is due to the recruitment of the 2006 year class, which has now appeared strong in two different surveys.

The changes in the final rule from the proposed rule are based on the most recent scientific information and implement the harvest strategy described in the proposed rule for the harvest specifications and are compared in the following table:

COMPARISON OF FINAL 2009 AND 2010 WITH PROPOSED 2009 AND 2010 TOTAL ALLOWABLE CATCH IN THE BSAI

[Amounts are in metric tons]

Species	Area [1]	2009 final TAC	2009 proposed TAC	2009 difference from proposed	2010 final TAC	2010 proposed TAC	2010 difference from proposed
Pollock	BS	815,000	1,000,000	−185,000	1,230,000	1,000,000	230,000
	AI	19,000	19,000	0	19,000	19,000	0
	Bogoslof	50	10	40	10	10	0
Pacific cod	BSAI	176,540	170,720	5,820	193,030	170,720	22,310
Sablefish	BS	2,720	2,610	110	2,520	2,610	−90
	AI	2,200	2,230	−30	2,040	2,230	−190
Atka mackerel	EAI/BS	27,000	15,300	11,700	22,900	15,300	7,600
	CAI	32,500	19,000	13,500	28,500	19,000	9,500
	WAI	16,900	13,200	3,700	19,700	13,200	6,500
Yellowfin sole	BSAI	210,000	225,000	−15,000	180,000	225,000	−45,000
Rock sole	BSAI	90,000	75,000	15,000	75,000	75,000	0
Greenland turbot	BS	5,090	1,750	3,340	4,920	1,750	3,170
	AI	2,290	790	1,500	2,210	790	1,420
Arrowtooth flounder	BSAI	75,000	75,000	0	60,000	75,000	−15,000
Flathead sole	BSAI	60,000	50,000	10,000	50,000	50,000	0
Other flatfish	BSAI	17,400	21,600	−4,200	17,400	21,600	−4,200
Alaska plaice	BSAI	50,000	50,000	0	30,000	50,000	−20,000
Pacific ocean perch	BS	3,820	4,100	−280	3,780	4,100	−320
	EAI	4,200	4,810	−610	4,160	4,810	−650
	CAI	4,260	4,900	−640	4,210	4,900	−690
	WAI	6,520	7,490	−970	6,450	7,490	−1,040
Northern rockfish	BSAI	7,160	8,130	−970	6,000	8,130	−2,130
Shortraker rockfish	BSAI	387	424	−37	387	424	−37
Rougheye rockfish	BSAI	539	202	337	552	202	350
Other rockfish	BS	485	414	71	485	414	71
	AI	555	554	1	555	554	1
Squid	BSAI	1,970	1,970	0	1,970	1,970	0
Other species	BSAI	50,000	50,000	0	34,221	50,000	−15,779
Total	BSAI	1,681,586	1,824,204	−142,618	2,000,000	1,824,204	175,796

[1] Bering Sea subarea (BS), Aleutian Islands subarea (AI), Bering Sea and Aleutian Islands Management Area (BSAI), Eastern Aleutian District (EAI), Central Aleutian District (CAI), and Western Aleutian District (WAI).

The final 2009 and 2010 TAC recommendations for the BSAI are within the OY range established for the BSAI and do not exceed the ABC for any single species or complex. Table 1 lists the final 2009 and 2010 OFL, ABC, TAC, initial TAC (ITAC), and CDQ reserve amounts of the BSAI groundfish. The apportionment of TAC amounts among fisheries and seasons is discussed below.

As mentioned in the proposed 2009 and 2010 harvest specifications, NMFS is apportioning the amounts shown in Table 2 from the non-specified reserve to increase the ITAC of several target species.

TABLE 1—FINAL 2009 AND 2010 OVERFISHING LEVEL (OFL), ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND CDQ RESERVE ALLOCATION OF GROUNDFISH IN THE BSAI [1]

[Amounts are in metric tons]

Species	Area	2009					2010				
		OFL	ABC	TAC	ITAC [2]	CDQ [3]	OFL	ABC	TAC	ITAC [2]	CDQ [3]
Pollock [3]	BS [2]	977,000	815,000	815,000	733,500	81,500	1,430,000	1,230,000	1,230,000	1,107,000	123,000
	AI [2]	32,600	26,900	19,000	17,100	1,900	36,800	30,400	19,000	17,100	1,900
	Bogoslof	58,400	7,970	50	50	0	58,400	7,970	10	10	0
Pacific cod [4]	BSAI	212,000	182,000	176,540	157,650	18,890	235,000	199,000	193,030	172,376	20,654
Sablefish [5]	BS	3,210	2,720	2,720	2,244	374	2,980	2,520	2,520	1,071	95
	AI	2,600	2,200	2,200	1,788	371	2,410	2,040	2,040	429	38
Atka mackerel	BSAI	99,400	83,800	76,400	68,225	8,175	84,400	71,100	71,100	63,492	7,608
	EAI/BS	n/a	27,000	27,000	24,111	2,889	n/a	22,900	22,900	20,450	2,450
	CAI	n/a	33,500	32,500	29,023	3,478	n/a	28,500	28,500	25,451	3,050
	WAI	n/a	23,300	16,900	15,092	1,808	n/a	19,700	19,700	17,592	2,108
Yellowfin sole	BSAI	224,000	210,000	210,000	187,530	22,470	210,000	198,000	180,000	160,740	19,260
Rock sole	BSAI	301,000	296,000	90,000	80,370	9,630	314,000	310,000	75,000	66,975	8,025
Greenland turbot.	BSAI	14,800	7,380	7,380	6,273	n/a	14,400	7,130	7,130	6,061	n/a
	BS	n/a	5,090	5,090	4,327	545	n/a	4,920	4,920	4,182	526
	AI	n/a	2,290	2,290	1,947	0	n/a	2,210	2,210	1,879	0
Arrowtooth flounder.	BSAI	190,000	156,000	75,000	63,750	8,025	196,000	161,000	60,000	51,000	6,420
Flathead sole	BSAI	83,800	71,400	60,000	53,580	6,420	81,800	69,800	50,000	44,650	5,350
Other flatfish [6]	BSAI	23,100	17,400	17,400	14,790	0	23,100	17,400	17,400	14,790	0
Alaska plaice	BSAI	298,000	232,000	50,000	42,500	0	354,000	275,000	30,000	25,500	0
Pacific ocean perch.	BSAI	22,300	18,800	18,800	16,624	n/a	22,100	18,600	18,600	16,447	n/a
	BS	n/a	3,820	3,820	3,247	0	n/a	3,780	3,780	3,213	0
	EAI	n/a	4,200	4,200	3,751	449	n/a	4,160	4,160	3,715	445
	CAI	n/a	4,260	4,260	3,804	456	n/a	4,210	4,210	3,760	450
	WAI	n/a	6,520	6,520	5,822	698	n/a	6,450	6,450	5,760	690
Northern rockfish.	BSAI	8,540	7,160	7,160	6,086	0	8,580	7,190	6,000	5,100	0
Shortraker rockfish.	BSAI	516	387	387	329	0	516	387	387	329	0
Rougheye rockfish.	BSAI	660	539	539	458	0	640	552	552	469	0
Other rockfish [7].	BSAI	1,380	1,040	1,040	884	0	1,380	1,040	1,040	884	0
	BS	n/a	485	485	412	0	n/a	485	485	412	0
	AI	n/a	555	555	472	0	n/a	555	555	472	0
Squid	BSAI	2,620	1,970	1,970	1,675	0	2,620	1,970	1,970	1,675	0
Other species [8].	BSAI	80,800	63,700	50,000	42,500	0	80,700	63,700	34,221	29,088	0
Total		2,636,726	2,204,366	1,681,586	1,497,906	159,902	3,159,826	2,674,799	2,000,000	1,785,185	194,462

[1] These amounts apply to the entire BSAI management area unless otherwise specified. With the exception of pollock, and for the purpose of these harvest specifications, the Bering Sea (BS) subarea includes the Bogoslof District.

[2] Except for pollock, the portion of the sablefish TAC allocated to hook-and-line and pot gear, and Amendment 80 species, 15 percent of each TAC is put into a reserve. The ITAC for these species is the remainder of the TAC after the subtraction of these reserves.

[3] Under § 679.20(a)(5)(i)(A)(*1*), the annual Bering Sea subarea pollock TAC after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (4.0 percent), is further allocated by sector for a directed pollock fishery as follows: inshore—50 percent; catcher/processor—40 percent; and motherships—10 percent. Under § 679.20(a)(5)(iii)(B)(*2*)(*i*) and (*ii*), the annual Aleutian Islands subarea pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (1,600 mt) is allocated to the Aleut Corporation for a directed pollock fishery.

[4] The Pacific cod TAC is reduced by three percent from the ABC to account for the State of Alaska's (State) guideline harvest level in State waters of the Aleutian Islands subarea.

[5] For the Amendment 80 species (Atka mackerel, flathead sole, rock sole, yellowfin sole, Pacific cod, and Aleutian Islands Pacific ocean perch), 10.7 percent of the TAC is reserved for use by CDQ participants (*see* §§ 679.20(b)(1)(ii)(C) and 679.31). Twenty percent of the sablefish TAC allocated to hook-and-line gear or pot gear, 7.5 percent of the sablefish TAC allocated to trawl gear, and 10.7 percent of the TACs for Bering Sea Greenland turbot and arrowtooth flounder are reserved for use by CDQ participants (*see* § 679.20(b)(1)(ii)(B) and (D)). Aleutian Islands Greenland turbot, "other flatfish," Alaska plaice, Bering Sea Pacific ocean perch, northern rockfish, shortraker rockfish, rougheye rockfish, "other rockfish," squid, and "other species" are not allocated to the CDQ program.

[6] "Other flatfish" includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, arrowtooth flounder, and Alaska plaice.

[7] "Other rockfish" includes all *Sebastes* and *Sebastolobus* species except for Pacific ocean perch, northern, dark, shortraker, and rougheye rockfish.

[8] "Other species" includes sculpins, sharks, skates, and octopus. Forage fish, as defined at § 679.2, are not included in the "other species" category.

Reserves and the Incidental Catch Allowance (ICA) for Pollock, Atka Mackerel, Flathead Sole, Rock Sole, Yellowfin Sole, and Aleutian Islands Pacific Ocean Perch

Section 679.20(b)(1)(i) requires the placement of 15 percent of the TAC for each target species or ''other species'' category, except for pollock, the hook-and-line and pot gear allocation of sablefish, and the Amendment 80 species, in a non-specified reserve. Section 679.20(b)(1)(ii)(B) requires that 20 percent of the hook-and-line and pot gear allocation of sablefish be allocated to the fixed gear sablefish CDQ reserve. Section 679.20(b)(1)(ii)(D) requires allocation of 7.5 percent of the trawl gear allocations of sablefish and 10.7 percent of the Bering Sea Greenland turbot and arrowtooth flounder TACs to the respective CDQ reserves. Section 679.20(b)(1)(ii)(C) requires allocation of 10.7 percent of the TACs for Atka mackerel, Aleutian Islands Pacific ocean perch, yellowfin sole, rock sole, flathead sole, and Pacific cod be allocated to the CDQ reserves. Sections 679.20(a)(5)(i)(A) and 679.31(a) also require the allocation of 10 percent of the BSAI pollock TACs to the pollock CDQ directed fishing allowance (DFA). The entire Bogoslof District pollock TAC is allocated as an ICA (see § 679.20(a)(5)(ii)). With the exception of the hook-and-line and pot gear sablefish CDQ reserve, the regulations do not further apportion the CDQ allocations by gear. Section 679.21(e)(3)(i)(A) requires withholding 7.5 percent of the Chinook salmon PSC limit, 10.7 percent of the crab and non-Chinook salmon PSC limits, and 343 (mt) of halibut PSC as PSQ reserves for the CDQ fisheries. Sections 679.30 and 679.31 set forth regulations governing the management of the CDQ and PSQ reserves, respectively.

Pursuant to § 679.20(a)(5)(i)(A)(*1*), NMFS allocates a pollock ICA of 4 percent of the Bering Sea subarea pollock TAC after subtraction of the 10 percent CDQ reserve. This allowance is based on NMFS' examination of the pollock incidental catch, including the incidental catch by CDQ vessels, in target fisheries other than pollock from 1999 through 2008. During this 9-year period, the pollock incidental catch ranged from a low of 2.4 percent in 2006 to a high of 5 percent in 1999, with a 10-year average of 3 percent. Pursuant to § 679.20(a)(5)(iii)(B)(*2*)(*i*) and (*ii*), NMFS establishes a pollock ICA of 1,600 mt for the AI subarea after subtraction of the 10 percent CDQ DFA. This allowance is based on NMFS' examination of the pollock incidental catch, including the incidental catch by CDQ vessels, in target fisheries other than pollock from 2003 through 2008. During this 6-year period, the incidental catch of pollock ranged from a low of 5 percent in 2006 to a high of 10 percent in 2003, with a 6-year average of 6 percent.

Pursuant to § 679.20(a)(8) and (10), NMFS allocates ICAs of 4,500 mt of flathead sole, 5,000 mt of rock sole, 2,000 mt of yellowfin sole, 10 mt of Western Aleutian District Pacific ocean perch, 10 mt of Central Aleutian District Pacific ocean perch, 100 mt of Eastern Aleutian District Pacific ocean perch, 20 mt of Western Aleutian District Atka mackerel, 20 mt of Central Aleutian District Atka mackerel, and 200 mt of Eastern Aleutian District and Bering Sea subarea Atka mackerel TAC after subtraction of the 10.7 percent CDQ reserve. These allowances are based on NMFS' examination of the incidental catch in other target fisheries from 2003 through 2008.

The regulations do not designate the remainder of the non-specified reserve by species or species group. Any amount of the reserve may be apportioned to a target species or to the ''other species'' category during the year, providing that such apportionments do not result in overfishing (see § 679.20(b)(1)(ii)). The Regional Administrator has determined that the ITACs specified for the species listed in Table 2 need to be supplemented from the non-specified reserve because U.S. fishing vessels have demonstrated the capacity to catch the full TAC allocations. Therefore, in accordance with § 679.20(b)(3), NMFS is apportioning the amounts shown in Table 2 from the non-specified reserve to increase the ITAC for northern rockfish, shortraker rockfish, rougheye rockfish, and Bering Sea ''other rockfish'' by 15 percent of the TAC in 2009 and 2010.

TABLE 2—FINAL 2009 APPORTIONMENT OF RESERVES TO ITAC CATEGORIES

[Amounts are in metric tons]

Species—area or subarea	2009 ITAC	2009 reserve amount	2009 final ITAC	2010 ITAC	2010 reserve amount	2010 final ITAC
Shortraker rockfish—BSAI	329	58	387	329	58	387
Rougheye rockfish—BSAI	458	81	539	469	83	552
Northern rockfish—BSAI	6,086	1,074	7,160	5,100	900	6,000
Other rockfish—Bering Sea subarea	412	73	485	412	73	485
Total	7,285	1,286	8,571	6,310	1,114	7,424

Allocation of Pollock TAC Under the American Fisheries Act (AFA)

Section 679.20(a)(5)(i)(A) requires that the pollock TAC apportioned to the Bering Sea subarea, after subtraction of the 10 percent for the CDQ program and the 4 percent for the ICA, be allocated as a DFA as follows: 50 percent to the inshore sector, 40 percent to the catcher/processor sector, and 10 percent to the mothership sector. In the Bering Sea subarea, 40 percent of the DFA is allocated to the A season (January 20–June 10), and 60 percent of the DFA is allocated to the B season (June 10-November 1). The AI directed pollock fishery allocation to the Aleut Corporation is the amount of pollock remaining in the AI subarea after subtracting 1,900 mt for the CDQ DFA (10 percent) and 1,600 mt for the ICA. In the AI subarea, 40 percent of the DFA is allocated to the A season and the remainder of the directed pollock fishery is allocated to the B season. Table 3 lists these 2009 and 2010 amounts.

Section 679.20(a)(5)(i)(A)(*4*) also includes several specific requirements regarding Bering Sea pollock allocations. First, 8.5 percent of the pollock allocated to the catcher/processor sector will be available for harvest by AFA catcher vessels with catcher/processor sector endorsements, unless the Regional Administrator receives a cooperative contract that provides for the distribution of harvest among AFA catcher/processors and AFA catcher vessels in a manner agreed to by all members. Second, AFA

catcher/processors not listed in the AFA are limited to harvesting not more than 0.5 percent of the pollock allocated to the catcher/processor sector. Table 3 lists the 2009 and 2010 allocations of pollock TAC. Tables 11 through 15 list the AFA catcher/processor and catcher vessel harvesting sideboard limits. The tables for the pollock allocations to the Bering Sea subarea inshore pollock cooperatives and open access sector will be posted on the Alaska Region Web site at *http://www.alaskafisheries.noaa.gov*.

Table 3 also lists seasonal apportionments of pollock and harvest limits within the Steller Sea Lion Conservation Area (SCA). The harvest within the SCA, as defined at § 679.22(a)(7)(vii), is limited to 28 percent of the annual DFA until April 1. The remaining 12 percent of the 40 percent annual DFA allocated to the A season may be taken outside the SCA before April 1 or inside the SCA after April 1. If less than 28 percent of the annual DFA is taken inside the SCA before April 1, the remainder will be available to be taken inside the SCA after April 1. The A season pollock SCA harvest limit will be apportioned to each sector in proportion to each sector's allocated percentage of the DFA. Table 3 lists by sector these 2009 and 2010 amounts.

TABLE 3—FINAL 2009 AND 2010 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA) [1]

[Amounts are in metric tons]

Area and sector	2009 Allocations	2009 A season [1]		2009 B season [1]	2010 Allocations	2010 A season [1]		2010 B season [1]
		A season DFA	SCA harvest limit [2]	B season DFA		A season DFA	SCA harvest limit [2]	B season DFA
Bering Sea subarea	815,000	n/a	n/a	n/a	1,230,000	n/a	n/a	n/a
CDQ DFA	81,500	32,600	22,820	48,900	123,000	49,200	34,440	73,800
ICA [1]	29,340	n/a	n/a	n/a	44,280	n/a	n/a	n/a
AFA Inshore	352,080	140,832	98,582	211,248	531,360	212,544	148,781	318,816
AFA Catcher/Processors [3]	281,664	112,666	78,866	168,998	425,088	170,035	119,025	255,053
Catch by C/Ps	257,723	103,089	n/a	154,634	388,956	155,582	n/a	233,373
Catch by CVs [3]	23,941	9,577	n/a	14,365	36,132	14,453	n/a	21,679
Unlisted C/P Limit [4]	1,408	563	n/a	845	2,125	850	n/a	1,275
AFA Motherships	70,416	28,166	19,716	42,250	106,272	42,509	29,756	63,763
Excessive Harvesting Limit [5]	123,228	n/a	n/a	n/a	185,976	n/a	n/a	n/a
Excessive Processing Limit [6]	211,248	n/a	n/a	n/a	318,816	n/a	n/a	n/a
Total Bering Sea DFA	704,160	281,664	197,165	422,495	1,062,721	425,087	297,562	637,632
Aleutian Islands subarea [1]	19,000	n/a	n/a	n/a	19,000	n/a	n/a	n/a
CDQ DFA	1,900	760	n/a	1,140	1,900	760	n/a	1,140
ICA	1,600	800	n/a	800	1,600	800	n/a	800
Aleut Corporation	15,500	15,500	n/a	0	15,500	15,500	n/a	0
Bogoslof District ICA [7]	50	n/a	n/a	n/a	10	n/a	n/a	n/a

[1] Pursuant to § 679.20(a)(5)(i)(A), the Bering Sea subarea pollock, after subtraction for the CDQ DFA (10 percent) and the ICA (4 percent), is allocated as a DFA as follows: inshore sector—50 percent, catcher/processor sector (C/P)—40 percent, and mothership sector—10 percent. In the Bering Sea subarea, 40 percent of the DFA is allocated to the A season (January 20–June 10) and 60 percent of the DFA is allocated to the B season (June 10–November 1). Pursuant to § 679.20(a)(5)(iii)(B)(*2*)(*i*) and (*ii*), the annual AI pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second the ICA (1,600 mt), is allocated to the Aleut Corporation for a directed pollock fishery. In the AI subarea, the A season is allocated 40 percent of the ABC and the B season is allocated the remainder of the directed pollock fishery.

[2] In the Bering Sea subarea, no more than 28 percent of each sector's annual DFA may be taken from the SCA before April 1. The remaining 12 percent of the annual DFA allocated to the A season may be taken outside of SCA before April 1 or inside the SCA after April 1. If less than 28 percent of the annual DFA is taken inside the SCA before April 1, the remainder will be available to be taken inside the SCA after April 1.

[3] Pursuant to § 679.20(a)(5)(i)(A)(*4*), not less than 8.5 percent of the DFA allocated to listed catcher/processors shall be available for harvest only by eligible catcher vessels delivering to listed catcher/processors.

[4] Pursuant to § 679.20(a)(5)(i)(A)(*4*)(*iii*), the AFA unlisted catcher/processors are limited to harvesting not more than 0.5 percent of the catcher/processors sector's allocation of pollock.

[5] Pursuant to § 679.20(a)(5)(i)(A)(*6*), NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the non-CDQ pollock DFAs.

[6] Pursuant to § 679.20(a)(5)(i)(A)(*7*), NMFS establishes an excessive processing share limit equal to 30.0 percent of the sum of the non-CDQ pollock DFAs.

[7] The Bogoslof District is closed by the final harvest specifications to directed fishing for pollock. The amounts specified are for ICA only and are not apportioned by season or sector.

Allocation of the Atka Mackerel TACs

Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtraction of the CDQ reserves, jig gear allocation, and ICAs for the BSAI trawl limited access sector and non-trawl gear, to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in Table 33 to part 679 and § 679.91.

Pursuant to § 679.20(a)(8)(i), up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea Atka mackerel ITAC may be allocated to jig gear. The amount of this allocation is determined annually by the Council based on several criteria, including the anticipated harvest capacity of the jig gear fleet. The Council recommended, and NMFS approves, a 0.5 percent allocation of the Atka mackerel ITAC in the Eastern Aleutian District and Bering Sea subarea to the jig gear in 2009 and 2010. Based on the 2009 TAC of 27,000 mt after subtractions of the CDQ reserve and ICA, the jig gear allocation would be 120 mt for 2009. Based on the 2010 TAC of 22,900 mt after subtractions of the CDQ reserve and ICA, the jig gear allocation would be 101 mt for 2010.

Section 679.20(a)(8)(ii)(A) apportions the Atka mackerel ITAC into two equal seasonal allowances. The first seasonal allowance is made available for directed fishing from January 1 (January 20 for trawl gear) to April 15 (A season), and the second seasonal allowance is made available from September 1 to November 1 (B season). The jig gear allocation is not apportioned by season.

Pursuant to § 679.20(a)(8)(ii)(C)(*1*), the Regional Administrator will establish a harvest limit area (HLA) limit of no more than 60 percent of the seasonal TAC for the Western and Central Aleutian Districts.

NMFS will establish HLA limits for the CDQ reserve and each of the three non-CDQ trawl sectors: the BSAI trawl limited access sector, the Amendment 80 limited access fishery, and an aggregate HLA limit applicable to all Amendment 80 cooperatives. NMFS will assign vessels in each of the three non-CDQ sectors that apply to fish for Atka mackerel in the HLA to an HLA fishery based on a random lottery of the vessels that apply (see § 679.20(a)(8)(iii)). There is no allocation of Atka mackerel to the BSAI trawl limited access sector in the Western Aleutian District. Therefore, no vessels in the BSAI trawl limited access sector will be assigned to the Western Aleutian District HLA fishery.

Each trawl sector will have a separate lottery. A maximum of two HLA fisheries will be established in Area 542 for the BSAI trawl limited access sector. A maximum of four HLA fisheries will be established for vessels assigned to Amendment 80 cooperatives: a first and second HLA fishery in Area 542, and a first and second HLA fishery in Area 543. A maximum of four HLA fisheries will be established for vessels assigned to the Amendment 80 limited access fishery: a first and second HLA fishery in Area 542, and a first and second HLA fishery in Area 543. NMFS will initially open fishing in the HLA for the first HLA fishery in all three trawl sectors at the same time. The initial opening of fishing in the HLA will be based on the first directed fishing closure of Atka mackerel for the Eastern Aleutian District and Bering Sea subarea for any one of the three trawl sectors allocated Atka mackerel TAC.

Table 4 lists these 2009 and 2010 amounts. The 2010 allocations for Atka mackerel between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2009.

TABLE 4—FINAL 2009 AND 2010 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATIONS OF THE BSAI ATKA MACKEREL TAC

[Amounts are in metric tons]

Sector [1]	Season [3 4]	2009 allocation by area			2010 allocation by area		
		Eastern Aleutian District/Bering Sea	Central Aleutian District	Western Aleutian District	Eastern Aleutian District/Bering Sea	Central Aleutian District	Western Aleutian District
TAC	n/a	27,000	32,500	16,900	22,900	28,500	19,700
CDQ reserve	Total	2,889	3,478	1,808	2,450	3,050	2,108
	HLA [5]	n/a	2,087	1,085	n/a	1,830	1,265
ICA	Total	200	20	20	200	20	20
Jig [6]	Total	120	0	0	101	0	0
BSAI trawl limited access	Total	952	1,160	0	1,209	1,526	0
	A	476	580	0	604	763	0
	HLA [4]	n/a	348	0	n/a	458	0
	B	476	580	0	604	763	0
	HLA [4]	n/a	348	0	n/a	458	0
Amendment 80 sectors	Total	22,840	27,842	15,072	18,940	23,905	17,572
	A	11,420	13,921	7,536	9,470	11,952	8,786
	HLA [4]	n/a	8,353	4,522	n/a	7,171	5,272
	B	11,420	13,921	7,536	9,470	11,952	8,786
	HLA [4]	n/a	8,353	4,522	n/a	7,171	5,272
Amendment 80 limited access	Total	12,328	16,795	9,275	n/a	n/a	n/a
	A	6,164	8,398	4,638	n/a	n/a	n/a
	HLA [4]	n/a	5,039	2,783	n/a	n/a	n/a
	B	6,164	8,398	4,638	n/a	n/a	n/a
	HLA [4]	n/a	5,039	2,783	n/a	n/a	n/a
Amendment 80 cooperatives	Total	10,512	11,047	5,797	n/a	n/a	n/a
	A	5,256	5,524	2,899	n/a	n/a	n/a
	HLA [4]	n/a	3,314	1,739	n/a	n/a	n/a
	B	5,256	5,524	2,899	n/a	n/a	n/a
	HLA [4]	n/a	3,314	1,739	n/a	n/a	n/a

[1] Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtraction of the CDQ reserves, jig gear allocation, and ICAs, to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in Table 33 to part 679 and § 679.91. The CDQ reserve is 10.7 percent of the TAC for use by CDQ participants (*see* §§ 679.20(b)(1)(ii)(C) and 679.31).

[2] Regulations at §§ 679.20(a)(8)(ii)(A) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery.

[3] The seasonal allowances of Atka mackerel are 50 percent in the A season and 50 percent in the B season.

[4] The A season is January 1 (January 20 for trawl gear) to April 15 and the B season is September 1 to November 1.

[5] Harvest Limit Area (HLA) limit refers to the amount of each seasonal allowance that is available for fishing inside the HLA (*see* § 679.2). In 2009 and 2010, 60 percent of each seasonal allowance is available for fishing inside the HLA in the Western and Central Aleutian Districts.

[6] Section 679.20(a)(8)(i) requires that up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea TAC be allocated to jig gear after subtraction of the CDQ reserve and ICA. The amount of this allocation is 0.5 percent. The jig gear allocation is not apportioned by season.

Allocation of the Pacific cod ITAC

Section 679.20(a)(7)(i) and (ii) allocates the Pacific cod TAC in the BSAI, after subtraction of 10.7 percent for the CDQ reserve, as follows: 1.4 percent to vessels using jig gear, 2.0 percent to hook-and-line and pot catcher vessels less than 60 ft (18.3 m) length overall (LOA), 0.2 percent to hook-and-line catcher vessels greater than or equal to 60 ft (18.3 m) LOA, 48.7 percent to hook-and-line catcher/processors, 8.4 percent to pot catcher vessels greater than or equal to 60 ft (18.3 m) LOA, 1.5 percent to pot catcher/processors, 2.3 percent to American Fisheries Act (AFA) trawl catcher/processors, 13.4 percent to non-AFA trawl catcher/processors, and 22.1 percent to trawl catcher vessels. The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. For 2009 and 2010, the Regional Administrator establishes an ICA of 500 mt based on anticipated incidental catch by these sectors in other fisheries. The allocation of the ITAC for Pacific cod to the Amendment 80 sector is established in Table 33 to part 679 and § 679.91. The 2010 allocations for Pacific cod between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2009.

The Pacific cod ITAC is apportioned into seasonal allowances to disperse the Pacific cod fisheries over the fishing year (see §§ 679.20(a)(7) and 679.23(e)(5)). In accordance with § 679.20(a)(7)(iv)(B) and (C), any unused portion of a seasonal Pacific cod allowance will become available at the beginning of the next seasonal allowance.

Pursuant to §§ 679.20(a)(7)(i)(B) and 679.23(e)(5), the CDQ season allowances by gear are as follows: For hook-and-line catcher/processors and hook-and-line catcher vessels greater than or equal to 60 ft (18.3 m) LOA harvesting CDQ Pacific cod, the first seasonal allowance of 60 percent of the ITAC is available for directed fishing from January 1 to June 10, and the second seasonal allowance of 40 percent of the ITAC is available from June 10 to December 31. No seasonal harvest constraints are imposed on the CDQ Pacific cod fishery for pot gear or hook-and-line catcher vessels less than 60 ft (18.3 m) LOA. For vessels harvesting CDQ Pacific cod with trawl gear, the first seasonal allowance of 60 percent of the ITAC is available January 20 to April 1. The second seasonal allowance, April 1 to June 10, and the third seasonal allowance, June 10 to November 1, are each allocated 20 percent of the ITAC. The CDQ Pacific cod trawl catcher vessel allocation is further allocated as 70 percent of the first seasonal allowance, 10 percent in the second seasonal allowance, and 20 percent in the third seasonal allowance. The CDQ Pacific cod trawl catcher/processor allocation is 50 percent in the first seasonal allowance, 30 percent in the second seasonal allowance, and 20 percent in the third seasonal allowance. For jig gear, the first and third seasonal allowances are each allocated 40 percent of the ITAC and the second seasonal allowance is allocated 20 percent of the ITAC.

Pursuant to §§ 679.20(a)(7)(iv)(A) and 679.23(e)(5), the non-CDQ season allowances by gear are as follows. For hook-and-line and pot catcher/processors and hook-and-line and pot catcher vessels greater than or equal to 60 ft (18.3 m) LOA, the first seasonal allowance of 51 percent of the ITAC is available for directed fishing from January 1 to June 10, and the second seasonal allowance of 49 percent of the ITAC is available from June 10 (September 1 for pot gear) to December 31. No seasonal harvest constraints are imposed on the Pacific cod fishery for catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear. For trawl gear, the first seasonal allowance is January 20 to April 1, the second seasonal allowance is April 1 to June 10, and the third seasonal allowance is June 10 to November 1. The trawl catcher vessel allocation is further allocated as 74 percent in the first seasonal allowance, 11 percent in the second seasonal allowance, and 15 percent in the third seasonal allowance. The trawl catcher/processor allocation is allocated 75 percent in the first seasonal allowance, 25 percent in the second seasonal allowance, and zero percent in the third seasonal allowance. For jig gear, the first seasonal allowance is allocated 60 percent of the ITAC, and the second and third seasonal allowances are each allocated 20 percent of the ITAC. Table 5 lists the 2009 and 2010 allocations and seasonal apportionments of the Pacific cod TAC.

TABLE 5A—FINAL 2009 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC

[Amounts are in metric tons]

Gear sector	Percent	2009 share of gear sector total	2009 share of sector total	2009 seasonal apportionment	
				Dates	Amount
Total TAC	100	176,540	n/a	n/a	n/a
CDQ	10.7	18,890	n/a	*see* § 679.20(a)(7)(i)(B)	n/a
Total hook-and-line/pot gear	60.8	95,851	n/a	0	n/a
Hook-and-line/pot ICA [1]	n/a	500	n/a	*see* § 679.20(a)(7)(ii)(B)	n/a
Hook-and-line/pot sub-total	n/a	95,351	n/a	n/a	n/a
Hook-and-line catcher/processor	48.7	n/a	76,375	Jan 1–Jun 10	38,951
				Jun 10–Dec 31	37,424
Hook-and-line catcher vessel ≥ 60 ft LOA	0.2	n/a	314	Jan 1–Jun 10	160
				Jun 10–Dec 31	154
Pot catcher/processor	1.5	n/a	2,352	Jan 1–Jun 10	1,200
				Sept 1–Dec 31	1,152
Pot catcher vessel ≥ 60 ft LOA	8.4	n/a	13,173	Jan 1–Jun 10	6,718
				Sept 1–Dec 31	6,455
Catcher vessel < 60 ft LOA using hook-and-line or pot gear	2.0	n/a	3,137	n/a	n/a
Trawl catcher vessel	22.1	34,841	n/a	Jan 20–Apr 1	25,782
				Apr 1–Jun 10	3,832
				Jun 10–Nov 1	5,226
AFA trawl catcher/processor	2.3	3,626	n/a	Jan 20–Apr 1	2,719
				Apr 1–Jun 10	906
				Jun 10–Nov 1	0
Amendment 80	13.4	21,125	n/a	Jan 20–Apr 1	15,844

TABLE 5A—FINAL 2009 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC—Continued

[Amounts are in metric tons]

Gear sector	Percent	2009 share of gear sector total	2009 share of sector total	2009 seasonal apportionment	
				Dates	Amount
				Apr 1–Jun 10	5,281
				Jun 10–Nov 1	0
Amendment 80 limited access	n/a	n/a	3,471	Jan 20–Apr 1	2,603
				Apr 1–Jun 10	868
				Jun 10–Nov 1	0
Amendment 80 cooperatives	n/a	n/a	17,654	Jan 20–Apr 1	13,241
				Apr 1–Jun 10	4,414
				Jun 10–Nov 1	0
Jig	1.4	2,207	n/a	Jan 1–Apr 30	1,324
				Apr 30–Aug 31	441
				Aug 31–Dec 31	441

[1] The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. The Regional Administrator approves an ICA of 500 mt for 2009 based on anticipated incidental catch in these fisheries.

TABLE 5B—FINAL 2010 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC

[Amounts are in metric tons]

Gear sector	Percent	2010 share of gear sector total	2010 share of sector total	2010 seasonal apportionment [2]	
				Dates	Amount
Total TAC	100	193,030	n/a	n/a	n/a
CDQ	10.7	20,654	n/a	*see* § 679.20(a)(7)(i)(B)	n/a
Total hook-and-line/pot gear	60.8	104,804	n/a	n/a	n/a
Hook-and-line/pot ICA [1]	n/a	500	n/a	*see* § 679.20(a)(7)(ii)(B)	n/a
Hook-and-line/pot sub-total	n/a	104,304	n/a	n/a	n/a
Hook-and-line catcher/processor	48.7	n/a	83,547	Jan 1–Jun 10	42,609
				Jun 10–Dec 31	40,938
Hook-and-line catcher vessel ≥ 60 ft LOA	0.2	n/a	343	Jan 1–Jun 10	175
				Jun 10–Dec 31	168
Pot catcher/processor	1.5	n/a	2,573	Jan 1–Jun 10	1,312
				Sept 1–Dec 31	1,261
Pot catcher vessel ≥ 60 ft LOA	8.4	n/a	14,410	Jan 1–Jun 10	7,349
				Sept 1–Dec 31	7,061
Catcher vessel < 60 ft LOA using hook-and-line or pot gear	2.0	3,431	3,431	n/a	n/a
Trawl catcher vessel	22.1	38,095	n/a	Jan 20–Apr 1	28,190
				Apr 1–Jun 10	4,190
				Jun 10–Nov 1	5,714
AFA trawl catcher/processor	2.3	3,965	n/a	Jan 20–Apr 1	2,973
				Apr 1–Jun 10	991
				Jun 10–Nov 1	0
Amendment 80	13.4	23,098	n/a	Jan 20–Apr 1	17,324
				Apr 1–Jun 10	5,775
				Jun 10–Nov 1	0
Amendment 80 limited access [2]	n/a	n/a	see footnote 2	Jan 20–Apr 1	75%
				Apr 1–Jun 10	25%
				Jun 10–Nov 1	0
Amendment 80 cooperatives [2]	n/a	n/a	see footnote 2	Jan 20–Apr 1	75%
				Apr 1–Jun 10	25%
				Jun 10–Nov 1	0
Jig	1.4	2,413	n/a	Jan 1–Apr 30	1,448
				Apr 30–Aug 31	483
				Aug 31–Dec 31	483

[1] The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. The Regional Administrator approves an ICA of 500 mt for 2010 based on anticipated incidental catch in these fisheries.

[2] The 2010 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2009.

Sablefish Gear Allocation

Sections 679.20(a)(4)(iii) and (iv) require the allocation of sablefish TACs for the Bering Sea and AI subareas between trawl and hook-and-line or pot gear. Gear allocations of the TACs for the Bering Sea subarea are 50 percent for trawl gear and 50 percent for hook-and-line or pot gear and for the AI subarea are 25 percent for trawl gear and 75 percent for hook-and-line or pot gear. Section 679.20(b)(1)(iii)(B) requires apportionment of 20 percent of the hook-and-line and pot gear allocation of sablefish to the CDQ reserve. Additionally, § 679.20(b)(1)(ii)(D) requires apportionment of 7.5 percent of the trawl gear allocation of sablefish to the CDQ reserve. The Council recommended that only trawl sablefish TAC be established biennially. The

harvest specifications for the hook-and-line gear and pot gear sablefish Individual Fishing Quota (IFQ) fisheries will be limited to the 2009 fishing year to ensure those fisheries are conducted concurrently with the halibut IFQ fishery. Concurrent sablefish and halibut IFQ fisheries reduces the potential for discards of halibut and sablefish in those fisheries. The sablefish IFQ fisheries will remain closed at the beginning of each fishing year until the final specifications for the sablefish IFQ fisheries are in effect. Table 6 lists the 2009 and 2010 gear allocations of the sablefish TAC and CDQ reserve amounts.

TABLE 6—FINAL 2009 AND 2010 GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TACS

[Amounts are in metric tons]

Subarea and gear	Percent of TAC	2009 Share of TAC	2009 ITAC	2009 CDQ reserve	2010 Share of TAC	2010 ITAC	2010 CDQ reserve
Bering Sea							
Trawl [1]	50	1,360	1,156	102	1,260	1,071	95
Hook-and-line/pot gear [2]	50	1,360	1,088	272	n/a	n/a	n/a
TOTAL	100	2,720	2,244	374	1,260	1,071	95
Aleutian Islands							
Trawl [1]	25	550	468	41	505	429	38
Hook-and-line/pot gear [2]	75	1,650	1,320	330	n/a	n/a	n/a
TOTAL	100	2,200	1,788	371	505	429	38

[1] Except for the sablefish hook-and-line or pot gear allocation, 15 percent of TAC is apportioned to the reserve. The ITAC is the remainder of the TAC after the subtraction of these reserves.

[2] For the portion of the sablefish TAC allocated to vessels using hook-and-line or pot gear, 20 percent of the allocated TAC is reserved for use by CDQ participants. The Council recommended that specifications for the hook-and-line gear sablefish IFQ fisheries be limited to 1 year.

Allocation of the Aleutian Islands Pacific Ocean Perch, and BSAI Flathead Sole, Rock Sole, and Yellowfin Sole TACs

Sections 679.20(a)(10)(i) and (ii) require the allocation between the Amendment 80 sector and BSAI trawl limited access sector for Aleutian Islands Pacific ocean perch, and BSAI flathead sole, rock sole, and yellowfin sole TACs, after subtraction of 10.7 percent for the CDQ reserve and an ICA for the BSAI trawl limited access sector and vessels using non-trawl gear. The allocation of the ITAC for Aleutian Islands Pacific ocean perch, and BSAI flathead sole, rock sole, and yellowfin sole to the Amendment 80 sector is established in Tables 33 and 34 to part 679 and § 679.91. The 2010 allocations for Amendment 80 species between Amendment 80 cooperatives and limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2009. Table 7 lists the 2009 and 2010 allocations of the Aleutian Islands Pacific ocean perch, and BSAI flathead sole, rock sole, and yellowfin sole TACs.

TABLE 7A—FINAL 2009 COMMUNITY DEVELOPMENT QUOTA (CDQ) RESERVES, INCIDENTAL CATCH AMOUNTS (ICAS), AND AMENDMENT 80 ALLOCATIONS OF THE ALEUTIAN ISLANDS PACIFIC OCEAN PERCH, AND BSAI FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE TACS

[Amounts are in metric tons]

Sector	Pacific ocean perch			BSAI		
	Eastern Aleutian District	Central Aleutian District	Western Aleutian District	Flathead sole	Rock sole	Yellowfin sole
TAC	4,200	4,260	6,520	60,000	90,000	210,000
CDQ	449	456	698	6,420	9,630	22,470
ICA	100	10	10	4,500	5,000	2,000
BSAI trawl limited access	365	379	116	0	0	39,154
Amendment 80	3,286	3,415	5,696	49,080	75,370	146,376
Amendment 80 limited access	1,742	1,811	3,020	5,729	18,559	58,389
Amendment 80 cooperatives	1,543	1,604	2,676	43,351	56,811	87,987

TABLE 7B—FINAL 2010 COMMUNITY DEVELOPMENT QUOTA (CDQ) RESERVES, INCIDENTAL CATCH AMOUNTS (ICAS), AND AMENDMENT 80 ALLOCATIONS OF THE ALEUTIAN ISLANDS PACIFIC OCEAN PERCH, AND BSAI FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE TACS

[Amounts are in metric tons]

Sector	Pacific ocean perch			BSAI		
	Eastern Aleutian District	Central Aleutian District	Western Aleutian District	Flathead sole	Rock sole	Yellowfin sole
TAC	4,160	4,210	6,450	50,000	75,000	180,000

TABLE 7B—FINAL 2010 COMMUNITY DEVELOPMENT QUOTA (CDQ) RESERVES, INCIDENTAL CATCH AMOUNTS (ICAS), AND AMENDMENT 80 ALLOCATIONS OF THE ALEUTIAN ISLANDS PACIFIC OCEAN PERCH, AND BSAI FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE TACS—Continued

[Amounts are in metric tons]

Sector	Pacific ocean perch			BSAI		
	Eastern Aleutian District	Central Aleutian District	Western Aleutian District	Flathead sole	Rock sole	Yellowfin sole
CDQ	445	450	690	5,350	8,025	19,260
ICA	100	10	10	4,500	5,000	2,000
BSAI trawl limited access	361	375	115	0	0	28,438
Amendment 80	3,253	3,375	5,635	40,150	61,975	130,302
Amendment 80 limited access [1]	n/a	n/a	n/a	n/a	n/a	n/a
Amendment 80 cooperatives [1]	n/a	n/a	n/a	n/a	n/a	n/a

[1] The 2010 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2009.

Allocation of PSC Limits for Halibut, Salmon, Crab, and Herring

Section 679.21(e) sets forth the BSAI PSC limits. Pursuant to § 679.21(e)(1)(iv) and (e)(2), the 2009 and 2010 BSAI halibut mortality limits are 3,675 mt for trawl fisheries and 900 mt for the non-trawl fisheries. Sections 679.21(e)(3)(i)(A)(*2*) and (e)(4)(i)(A) allocates 276 mt in 2009 and 326 mt in 2010 of the trawl halibut mortality limit and 7.5 percent, or 67 mt, of the non-trawl halibut mortality limit as the PSQ reserve for use by the groundfish CDQ program. Section 679.21(e)(1)(vii) specifies 29,000 fish as the 2009 and 2010 Chinook salmon PSC limit for the Bering Sea subarea pollock fishery. Section 679.21(e)(3)(i)(A)(*3*)(*i*) allocates 7.5 percent, or 2,175 Chinook salmon, as the PSQ reserve for the CDQ program and allocates the remaining 26,825 Chinook salmon to the non-CDQ fisheries. Section 679.21(e)(1)(ix) specifies 700 fish as the 2009 and 2010 Chinook salmon PSC limit for the AI subarea pollock fishery. Section 679.21(e)(3)(i)(A)(*3*)(*i*) allocates 7.5 percent, or 53 Chinook salmon, as the AI subarea PSQ for the CDQ program and allocates the remaining 647 Chinook salmon to the non-CDQ fisheries. Section 679.21(e)(1)(viii) specifies 42,000 fish as the 2009 and 2010 non-Chinook salmon PSC limit. Section 679.21(e)(3)(i)(A)(*3*)(*ii*) allocates 10.7 percent, or 4,494 non-Chinook salmon, as the PSQ for the CDQ program and allocates the remaining 37,506 non-Chinook salmon to the non-CDQ fisheries.

PSC limits for crab and herring are specified annually based on abundance and spawning biomass.

The red king crab mature female abundance is estimated from the 2008 survey data at 35 million red king crabs, and the effective spawning biomass is estimated at 75 million lb (34,020 mt). Based on the criteria set out at § 679.21(e)(1)(ii), the 2009 and 2010 PSC limit of red king crab in Zone 1 for trawl gear is 197,000 animals. This limit derives from the mature female abundance of more than 8.4 million king crab and the effective spawning biomass estimate of more than 55 million lb (24,948 mt).

Section 679.21(e)(3)(ii)(B)(*2*) establishes criteria under which NMFS must specify an annual red king crab bycatch limit for the Red King Crab Savings Subarea (RKCSS). The regulations limit the RKCSS to up to 25 percent of the red king crab PSC limit based on the need to optimize the groundfish harvest relative to red king crab bycatch. In December 2008, the Council recommended, and NMFS approves, that the red king crab bycatch limit be equal to 25 percent of the red king crab PSC limit within the RKCSS (Table 8b).

Based on 2008 survey data, Tanner crab (*Chionoecetes bairdi*) abundance is estimated at 435 million animals. Given the criteria set out at § 679.21(e)(1)(iii), the calculated 2009 and 2010 *C. bairdi* crab PSC limit for trawl gear is 980,000 animals in Zone 1 and 2,970,000 animals in Zone 2. These limits are derived from the *C. bairdi* crab abundance estimate being in excess of the 400 million animal threshold specified in § 679.21(e)(1)(ii).

Pursuant to § 679.21(e)(1)(iv), the PSC limit for snow crab *C. opilio*) is based on total abundance as indicated by the NMFS annual bottom trawl survey. The *C. opilio* crab PSC limit is set at 0.1133 percent of the Bering Sea abundance index. Based on the 2008 survey estimate of 2.6 billion animals, the calculated limit is 4,350,000 animals.

Pursuant to § 679.21(e)(1)(vi), the PSC limit of Pacific herring caught while conducting any trawl operation for BSAI groundfish is 1 percent of the annual eastern Bering Sea herring biomass. The best estimate of 2009 and 2010 herring biomass is 169,675 mt. This amount was derived using 2008 survey data and an age-structured biomass projection model developed by the Alaska Department of Fish and Game. Therefore, the herring PSC limit for 2009 and 2010 is 1,697 mt for all trawl gear as presented in Tables 8a and b.

Section 679.21(e)(3) requires, after subtraction of PSQ reserves, that crab and halibut trawl PSC be apportioned between the BSAI trawl limited access and Amendment 80 sectors as presented in Table 8a. The amount of 2009 PSC limits assigned to the Amendment 80 sector is specified in Table 35 to part 679. Pursuant to § 679.21(e)(1)(iv) and § 679.91(d) through (f), crab and halibut trawl PSC assigned to the Amendment 80 sector is then sub-allocated to Amendment 80 cooperatives as PSC cooperative quota (CQ) and to the Amendment 80 limited access fishery as presented in Tables 8d and 8e. PSC CQ assigned to Amendment 80 cooperatives is not allocated to specific fishery categories. The 2010 PSC allocations between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2009. Section 679.21(e)(3)(i)(B) requires the apportionment of each trawl PSC limit not assigned to Amendment 80 cooperatives into PSC bycatch allowances for seven specified fishery categories.

Section 679.21(e)(4)(i) authorizes the apportionment of the non-trawl halibut PSC limit into PSC bycatch allowances among six fishery categories. Table 8c lists the fishery bycatch allowances for the trawl and non-trawl fisheries.

Section 679.21(e)(4)(ii) authorizes the exemption of specified non-trawl

fisheries from the halibut PSC limit. As in past years after consultation with the Council, NMFS exempts pot gear, jig gear, and the sablefish IFQ hook-and-line gear fishery categories from halibut bycatch restrictions because (1) The pot gear fisheries have low halibut bycatch mortality, (2) halibut mortality for the jig gear fleet is assumed to be negligible, and (3) the sablefish and halibut IFQ fisheries have low halibut bycatch mortality because the IFQ program requires legal-size halibut to be retained by vessels using hook-and-line gear if a halibut IFQ permit holder or a hired master is aboard and is holding unused halibut IFQ (subpart D of 50 CFR part 679). In 2008, total groundfish catch for the pot gear fishery in the BSAI was approximately 22,160 mt, with an associated halibut bycatch mortality of about 6 mt. The 2008 jig gear fishery harvested about 228 mt of groundfish. Most vessels in the jig gear fleet are less than 60 ft (18.3 m) LOA and thus are exempt from observer coverage requirements. As a result, observer data are not available on halibut bycatch in the jig gear fishery. However, a negligible amount of halibut bycatch mortality is assumed because of the selective nature of jig gear and the low mortality rate of halibut caught with jig gear and released.

Section 679.21(e)(5) authorizes NMFS, after consultation with the Council, to establish seasonal apportionments of PSC amounts for the BSAI trawl limited access and Amendment 80 limited access sectors in order to maximize the ability of the fleet to harvest the available groundfish TAC and to minimize bycatch. The factors to be considered are (1) Seasonal distribution of prohibited species, (2) seasonal distribution of target groundfish species, (3) PSC bycatch needs on a seasonal basis relevant to prohibited species biomass, (4) expected variations in bycatch rates throughout the year, (5) expected start of fishing effort, and (6) economic effects of seasonal PSC apportionments on industry sectors. The Council recommended and NMFS approves the seasonal PSC apportionments in Tables 8c and 8e to maximize harvest among gear types, fisheries, and seasons while minimizing bycatch of PSC based on the above criteria.

TABLE 8A—FINAL 2009 AND 2010 APPORTIONMENT OF PROHIBITED SPECIES CATCH ALLOWANCES TO NON-TRAWL GEAR, THE CDQ PROGRAM, AMENDMENT 80, AND THE BSAI TRAWL LIMITED ACCESS SECTORS

PSC species	Total non-trawl PSC	Non-trawl PSC remaining after CDQ PSQ [1]	Total trawl PSC	Trawl PSC remaining after CDQ PSQ [1]	CDQ PSQ reserve [1]	Amendment 80 sector		BSAI trawl limited access fishery
						2009	2010	
Halibut mortality (mt) BSAI.	900	832	3,675	3,400 in 2009, and 3,282 in 2010.	343 in 2009, and 393 in 2010.	2,475	2,425	875
Herring (mt) BSAI	n/a	n/a	1,697	n/a	n/a	n/a	n/a	n/a
Red king crab (animals) Zone 1 [2].	n/a	n/a	197,000	175,921	21,079	104,427	98,920	53,797
C. opilio (animals) COBLZ [2].	n/a	n/a	4,350,000	3,884,550	465,450	2,267,412	2,148,156	1,248,494
C. bairdi crab (animals) Zone 1 [2].	n/a	n/a	980,000	875,140	104,860	437,658	414,641	411,228
C. bairdi crab (animals) Zone 2 [2].	n/a	n/a	2,970,000	2,652,210	317,790	745,536	706,284	1,241,500

[1] Sections 679.21(e)(3)(i)(A)(2) and (e)(4)(i)(A) allocate 276 mt in 2009 and 326 mt in 2010 of the trawl halibut mortality limit and 7.5 percent, or 67 mt, of the non-trawl halibut mortality limit as the PSQ reserve for use by the groundfish CDQ program. The PSQ reserve for crab species is 10.7 percent of each crab PSC limit.

[2] Refer to 50 CFR 679.2 for definitions of areas.

TABLE 8B—FINAL 2009 AND 2010 HERRING AND RED KING CRAB SAVINGS SUBAREA PROHIBITED SPECIES CATCH ALLOWANCES FOR ALL TRAWL SECTORS

Fishery categories	Herring (mt) BSAI	Red king crab (animals) Zone 1
Yellowfin sole	146	n/a
Rock sole/flathead sole/other flatfish [1]	25	n/a
Turbot/arrowtooth/sablefish [2]	12	n/a
Rockfish	9	n/a
Pacific cod	25	n/a
Midwater trawl pollock	1,296	n/a
Pollock/Atka mackerel/other species [3]	184	n/a
Red king crab savings subarea Non-pelagic trawl gear [4]	n/a	49,250
Total trawl PSC	1,697	197,000

[1] "Other flatfish" for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, and arrowtooth flounder.

[2] Greenland turbot, arrowtooth flounder, and sablefish fishery category.

[3] Non-pelagic pollock, Atka mackerel, and "other species" fishery category.

[4] In December 2008 the Council recommended that the red king crab bycatch limit for non-pelagic trawl fisheries within the RKCSS be limited to 25 percent of the red king crab PSC limit (*see* § 679.21(e)(3)(ii)(B)(*2*)).

TABLE 8C—FINAL 2009 AND 2010 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL LIMITED ACCESS SECTOR AND NON-TRAWL FISHERIES

BSAI trawl limited access fisheries	Prohibited species and area [1]				
	Halibut mortality (mt) BSAI	Red king crab (animals) Zone 1	*C. opilio* (animals) COBLZ	*C. bairdi* (animals)	
				Zone 1	Zone 2
Yellowfin sole	187	47,397	1,176,494	346,228	1,185,500
Rock sole/flathead sole/other flatfish [2]	0	0	0	0	0
Turbot/arrowtooth/sablefish [3]	0	0	0	0	0
Rockfish	5	0	2,000	60,000	1,000
Pacific cod	508	6,000	50,000	60,000	50,000
Pollock/Atka mackerel/other species [4]	175	400	20,000	5,000	5,000
Total BSAI trawl limited access PSC	875	53,797	1,248,494	411,228	1,241,500

Non-trawl fisheries	Catcher processor	Catcher vessel
Pacific cod—Total	760	15
January 1–June 10	314	10
June 10–August 15	0	3
August 15–December 31	446	2
Other non-trawl—Total		58
May 1–December 31		58
Groundfish pot and jig		exempt
Sablefish hook-and-line		exempt
Total non-trawl PSC		833

[1] Refer to § 679.2 for definitions of areas.
[2] ''Other flatfish'' for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, and arrowtooth flounder.
[3] Greenland turbot, arrowtooth flounder, and sablefish fishery category.
[4] ''Other species'' for PSC monitoring includes sculpins, sharks, skates, and octopus.

TABLE 8D—FINAL 2009 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI AMENDMENT 80 COOPERATIVES

Year	Prohibited species and area [1]				
	Halibut mortality (mt) BSAI	Red king crab (animals) Zone 1	*C. opilio* (animals) COBLZ	*C. bairdi* (animals)	
				Zone 1	Zone 2
2009	1,793	74,351	1,544,825	321,922	548,443

[1] Refer to § 679.2 for definitions of areas.

TABLE 8E—FINAL 2009 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI AMENDMENT 80 LIMITED ACCESS FISHERIES

Amendment 80 limited access fisheries	Prohibited species and area [1]				
	Halibut mortality (mt) BSAI	Red king crab (animals) Zone 1	*C. opilio* (animals) COBLZ	*C. bairdi* (animals)	
				Zone 1	Zone 2
Yellowfin sole	370	6,286	634,639	61,785	151,133
Jan 20–Jul 1	223	6,096	618,505	55,778	119,056
Jul 1–Dec 31	147	190	16,134	6,007	32,077
Rock sole/other flat/flathead sole [2]	217	23,750	87,848	53,851	45,860
Jan 20–Apr 1	177	23,400	84,877	47,510	40,060
Apr 1–Jul 1	20	175	1,561	3,320	2,900
July 1–Dec 31	20	175	1,410	3,021	2,900
Turbot/arrowtooth/sablefish [3]	5	50	100	100	100
Rockfish	45	n/a	n/a	n/a	n/a
Pacific cod	0	0	0	0	0
Pollock/Atka mackerel/other species [4]	45	0	0	0	0
Total Amendment 80 trawl limited access PSC	682	30,086	722,587	115,736	197,093

[1] Refer to § 679.2 for definitions of areas.
[2] ''Other flatfish'' for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, and arrowtooth flounder.

[3] Greenland turbot, arrowtooth flounder, and sablefish fishery category.
[4] Pollock other than pelagic trawl pollock, Atka mackerel, and ''other species'' fishery category. ''Other species'' for PSC monitoring includes sculpins, sharks, skates, and octopus.

Halibut Discard Mortality Rates

To monitor halibut bycatch mortality allowances and apportionments, the Regional Administrator uses observed halibut bycatch rates, discard mortality rates (DMR), and estimates of groundfish catch to project when a fishery's halibut bycatch mortality allowance or seasonal apportionment is reached. The DMRs are based on the best information available, including information contained in the annual SAFE report.

NMFS approves the halibut DMRs developed and recommended by the International Pacific Halibut Commission (IPHC) and the Council for the 2009 and 2010 BSAI groundfish fisheries for use in monitoring the 2009 and 2010 halibut bycatch allowances (see Tables 8a–e). The IPHC developed these DMRs for the 2009 and 2010 BSAI non-CDQ fisheries using the 10-year mean DMRs for those fisheries. The IPHC changed the DMRs for the 2009 and 2010 BSAI CDQ fisheries using the 1998 to 2007 DMRs for those fisheries. The IPHC will analyze observer data annually and recommend changes to the DMRs when a fishery DMR shows large variation from the mean. A copy of the document justifying these DMRs is available from the Council (*see* **ADDRESSES**), and the DMRs are discussed in the final 2008 SAFE report dated November 2008. Table 9 lists the 2009 and 2010 DMRs.

TABLE 9—FINAL 2009 AND 2010 PACIFIC HALIBUT DISCARD MORTALITY RATES FOR THE BSAI

Gear	Fishery	Halibut discard mortality rate (percent)	
		2009	2010
Non-CDQ hook-and-line	Greenland turbot	13	13
	Other species	11	11
	Pacific cod	11	11
	Rockfish	17	17
Non-CDQ trawl	Arrowtooth flounder	75	75
	Atka mackerel	76	76
	Flathead sole	70	70
	Greenland turbot	70	70
	Non-pelagic pollock	74	74
	Pelagic pollock	88	88
	Other flatfish	74	74
	Other species	70	70
	Pacific cod	70	70
	Rockfish	76	76
	Rock sole	80	80
	Sablefish	75	75
	Yellowfin sole	80	80
Non-CDQ pot	Other species	7	7
	Pacific cod	7	7
CDQ trawl	Atka mackerel	85	85
	Flathead sole	87	84
	Non-pelagic pollock	86	85
	Pelagic pollock	90	90
	Rockfish	82	82
	Rock sole	86	88
	Yellowfin sole	84	84
CDQ hook-and-line	Greenland turbot	4	4
	Pacific cod	10	10
CDQ pot	Pacific cod	7	7
	Sablefish	35	34

Directed Fishing Closures

In accordance with § 679.20(d)(1)(i), the Regional Administrator may establish a DFA for a species or species group if the Regional Administrator determines that any allocation or apportionment of a target species or ''other species'' category has been or will be reached. If the Regional Administrator establishes a DFA, and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified subarea or district (see § 697.20(d)(1)(iii)). Similarly, pursuant to § 679.21(e), if the Regional Administrator determines that a fishery category's bycatch allowance of halibut, red king crab, *C. bairdi* crab, or *C. opilio* crab for a specified area has been reached, the Regional Administrator will prohibit directed fishing for each species in that category in the specified area.

The Regional Administrator has determined that the groundfish allocation amounts in Table 10 will be necessary as incidental catch to support other anticipated groundfish fisheries for the 2009 and 2010 fishing years. Consequently, in accordance with § 679.20(d)(1)(i), the Regional Administrator establishes the DFA for the species and species groups in Table 10 as zero. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing for these sectors and species in the specified areas effective at 1200 hrs, A.l.t., February 17, 2009, through 2400 hrs, A.l.t., December 31, 2010. Also, the

BSAI trawl limited access and Amendment 80 limited access sectors bycatch allowances of halibut in Table 10 are zero mt and the bycatch allowances of red king crab, *C. bairdi* crab, and *C. opilio* crab in Table 10 are 0 animals. Therefore, in accordance with § 679.21(e)(7), NMFS is prohibiting directed fishing for these sectors and fishery categories in the specified areas effective at 1200 hrs, A.l.t., February 17, 2009, through 2400 hrs, A.l.t., December 31, 2010.

TABLE 10—2009 AND 2010 DIRECTED FISHING CLOSURES [1]

[Groundfish and halibut amounts are in metric tons. Crab amounts are in number of animals.]

Area	Sector	Species	2009 Incidental catch allowance	2010 Incidental catch allowance
Bogoslof District	All	Pollock	50	10
Aleutian Islands subarea	All	ICA pollock	1,600	1,600
		"Other rockfish"	472	472
Eastern Aleutian District/Bering Sea.	Non-amendment 80 and BSAI trawl limited access.	ICA Atka mackerel	200	200
		ICA Pacific ocean perch	100	100
Central Aleutian District/Bering Sea	Non-amendment 80 and BSAI trawl limited access.	ICA Atka mackerel	20	20
		ICA Pacific ocean perch	10	10
Western Aleutian District/Bering Sea.	Non-amendment 80 and BSAI trawl limited access.	ICA Atka mackerel	20	20
		ICA Pacific ocean perch	10	10
Bering Sea subarea	All	Pacific ocean perch	3,247	3,213
		"Other rockfish"	485	485
		ICA pollock	29,340	44,280
Bering Sea and Aleutian Islands	All	Northern rockfish	7,160	6,000
		Shortraker rockfish	387	387
		Rougheye rockfish	539	552
		"Other species"	42,500	29,088
	Hook-and-line and pot gear	ICA Pacific cod	500	500
	Non-amendment 80	ICA flathead sole	4,500	4,500
		ICA rock sole	5,000	5,000
		ICA yellowfin sole	2,000	2,000
	BSAI trawl limited access	Rock sole/flathead sole/other flatfish—halibut mortality, red king crab zone 1, *C. opilio* COBLZ, *C. bairdi* Zone 1 and 2.	0	0
		Turbot/arrowtooth/sablefish—halibut mortality, red king crab zone 1, *C. opilio* COBLZ, *C. bairdi* Zone 1 and 2.	0	0
		Rockfish—red king crab zone 1	0	0
	Amendment 80 limited access	Turbot/arrowtooth/sablefish—halibut mortality, red king crab zone 1, *C. bairdi* Zone 1 and 2.	0	n/a
		Rockfish—red king crab zone 1, *C. opilio* COBLZ, *C. bairdi* Zone 1 and 2.	0	n/a
		Pollock/Atka mackerel/other species—red king crab zone 1, *C. opilio* COBLZ, *C. bairdi* Zone 1 and 2.	0	n/a

[1] Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.

Closures implemented under the 2008 and 2009 Bering Sea and Aleutian Islands harvest specifications for groundfish (73 FR 10160, February 26, 2008) remain effective under authority of these final 2009 and 2010 harvest specifications, and are posted at the following Web sites: *http://www.alaskafisheries.noaa.gov/index/infobulletins/infobulletins.asp?Yr=2009,* and *http://www.alaskafisheries.noaa.gov/2009/status.htm.* While these closures are in effect, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a fishing trip. These closures to directed fishing are in addition to closures and prohibitions found in regulations at 50 CFR part 679.

Central Gulf of Alaska Rockfish Pilot Program (Rockfish Program)

On June 6, 2005, the Council adopted the Rockfish Program to meet the requirements of Section 802 of the Consolidated Appropriations Act of 2004 (Pub. L. 108–199). The basis for the BSAI fishing prohibitions and the catcher vessel BSAI Pacific cod sideboard limits of the Rockfish Program are discussed in detail in the final rule to Amendment 68 to the Fishery Management Plan for groundfish of the Gulf of Alaska (71 FR 67210, November 20, 2006). Pursuant to § 679.82(d)(6)(i), the catcher vessel BSAI Pacific cod sideboard limit is 0.0 mt. Therefore, in accordance with § 679.82(d)(7)(ii), NMFS is prohibiting directed fishing for BSAI Pacific cod in July for catcher vessels under the Rockfish Program sideboard limitations.

Listed AFA Catcher/Processor Sideboard Limits

Pursuant to § 679.64(a), the Regional Administrator is responsible for restricting the ability of listed AFA catcher/processors to engage in directed fishing for groundfish species other than pollock to protect participants in other groundfish fisheries from adverse effects resulting from the AFA and from fishery cooperatives in the directed pollock fishery. The basis for these sideboard limits is described in detail in the final rules implementing the major provisions of the AFA (67 FR 79692, December 30, 2002) and Amendment 80 (72 FR 52668, September 14, 2007). Table 11 lists the 2009 and 2010 catcher/processor sideboard limits.

All catch of groundfish sideboard species by listed AFA catcher/processors, whether as targeted catch or incidental catch, will be deducted from the sideboard limits in Table 11. However, groundfish sideboard species that are delivered to listed catcher/processors by catcher vessels will not be deducted from the 2009 and 2010 sideboard limits for the listed AFA catcher/processors.

TABLE 11—FINAL 2009 AND 2010 LISTED BSAI AMERICAN FISHERIES ACT CATCHER/PROCESSOR GROUNDFISH SIDEBOARD LIMITS

[Amounts are in metric tons]

Target species	Area	1995–1997			2009 ITAC available to trawl C/Ps [1]	2009 AFA C/P side board limit	2010 ITAC available to trawl C/Ps [1]	2010 AFA C/P side board limit
		Retained catch	Total catch	Ratio of retained catch to total catch				
Sablefish trawl	BS	8	497	0.016	1,156	18	1,071	17
	AI	0	145	0.000	468	0	429	0
Atka mackerel	Central AI A season [2].	n/a	n/a	0.115	14,512	1,669	12,726	1,463
	HLA limit [3]	n/a	n/a	n/a	8,707	1,001	7,636	878
	B season [2]	n/a	n/a	0.115	14,512	1,669	12,726	1,463
	HLA limit [3]	n/a	n/a	n/a	8,707	1,001	7,636	878
	Western AI A season [2].	n/a	n/a	0.200	7,546	1,509	8,796	1,759
	HLA limit [3]	n/a	n/a	n/a	4,528	906	5,278	1,056
	B season [2]	n/a	n/a	0.200	7,546	1,509	8,796	1,759
	HLA limit [3]	n/a	n/a	n/a	4,528	906	5,278	1,056
Yellowfin sole [4]	BSAI	100,192	435,788	0.230	187,530	n/a	160,740	n/a
Rock sole	BSAI	6,317	169,362	0.037	80,370	2,974	66,975	2,478
Greenland turbot	BS	121	17,305	0.007	4,327	30	4,182	29
	AI	23	4,987	0.005	1,947	10	1,879	9
Arrowtooth flounder	BSAI	76	33,987	0.002	63,750	128	51,000	102
Flathead sole	BSAI	1,925	52,755	0.036	53,580	1,929	44,650	1,607
Alaska plaice	BSAI	14	9,438	0.001	42,500	43	25,500	26
Other flatfish	BSAI	3,058	52,298	0.058	14,790	858	14,790	858
Pacific ocean perch.	BS	12	4,879	0.002	3,247	6	3,213	6
	Eastern AI	125	6,179	0.020	3,751	75	3,715	74
	Central AI	3	5,698	0.001	3,804	4	3,760	4
	Western AI	54	13,598	0.004	5,822	23	5,760	23
Northern rockfish	BSAI	91	13,040	0.007	7,160	50	6,000	42
Shortraker rockfish	BSAI	50	2,811	0.018	387	7	387	7
Rougheye rockfish	BSAI	50	2,811	0.018	539	10	552	10
Other rockfish	BS	18	621	0.029	485	14	485	14
	AI	22	806	0.027	472	13	472	13
Squid	BSAI	73	3,328	0.022	1,675	37	1,675	37
Other species	BSAI	553	68,672	0.008	42,500	340	29,088	233

[1] Aleutian Islands Pacific ocean perch, and BSAI Atka mackerel, flathead sole, rock sole, yellowfin sole are multiplied by the remainder of the TAC after the subtraction of the CDQ reserve under § 679.20(b)(1)(ii)(C).

[2] The seasonal apportionment of Atka mackerel in the open access fishery is 50 percent in the A season and 50 percent in the B season. Listed AFA catcher/processors are limited to harvesting no more than zero in the Eastern Aleutian District and Bering Sea subarea, 20 percent of the annual ITAC specified for the Western Aleutian District, and 11.5 percent of the annual ITAC specified for the Central Aleutian District.

[3] Harvest Limit Area (HLA) limit refers to the amount of each seasonal allowance that is available for fishing inside the HLA (*see* § 679.2). In 2009 and 2010, 60 percent of each seasonal allowance is available for fishing inside the HLA in the Western and Central Aleutian Districts.

[4] Section 679.64(a)(1)(v) exempts AFA catcher/processors from a yellowfin sole sideboard limit because the 2009 and 2010 aggregate ITAC of yellowfin sole assigned to the Amendment 80 sector and BSAI trawl limited access sector (187,530 mt in 2009 and 160,740 mt in 2010) is greater than 125,000 mt.

Section 679.64(a)(2) and Tables 40 and 41 of part 679 establish a formula for calculating PSC sideboard limits for listed AFA catcher/processors. The basis for these sideboard limits is described in detail in the final rules implementing the major provisions of the AFA (67 FR 79692, December 30, 2002) and Amendment 80 (72 FR 52668, September 14, 2007).

PSC species listed in Table 12 that are caught by listed AFA catcher/processors participating in any groundfish fishery other than pollock will accrue against the 2009 and 2010 PSC sideboard limits for the listed AFA catcher/processors. Section 679.21(e)(3)(v) authorizes NMFS to close directed fishing for groundfish other than pollock for listed AFA catcher/processors once a 2009 or 2010

PSC sideboard limit listed in Table 12 is reached.

Crab or halibut PSC caught by listed AFA catcher/processors while fishing for pollock will accrue against the bycatch allowances annually specified for either the midwater pollock or the pollock/Atka mackerel/''other species'' fishery categories under regulations at § 679.21(e)(3)(iv).

TABLE 12—FINAL 2009 AND 2010 BSAI AMERICAN FISHERIES ACT LISTED CATCHER/PROCESSOR PROHIBITED SPECIES SIDEBOARD LIMITS

PSC species and area [2]	Ratio of PSC catch to total PSC	2009 and 2010 PSC available to trawl vessels after subtraction of PSQ [1]	2009 and 2010 C/P sideboard limit [1]
Halibut mortality BSAI	n/a	n/a	286
Red king crab zone 1	0.007	175,921	1,231
C. opilio (COBLZ)	0.153	3,884,550	594,336
C. bairdi:			
Zone 1	0.140	875,140	122,520
Zone 2	0.050	2,652,210	132,611

[1] Halibut amounts are in metric tons of halibut mortality. Crab amounts are in numbers of animals.
[2] Refer to § 679.2 for definitions of areas.

AFA Catcher Vessel Sideboard Limits

Pursuant to § 679.64(a), the Regional Administrator is responsible for restricting the ability of AFA catcher vessels to engage in directed fishing for groundfish species other than pollock to protect participants in other groundfish fisheries from adverse effects resulting from the AFA and from fishery cooperatives in the directed pollock fishery. Section 679.64(b) establishes a formula for setting AFA catcher vessel groundfish and PSC sideboard limits for the BSAI. The basis for these sideboard limits is described in detail in the final rules implementing the major provisions of the AFA (67 FR 79692, December 30, 2002) and Amendment 80 (72 FR 52668, September 14, 2007). Tables 13 and 14 list the 2009 and 2010 AFA catcher vessel sideboard limits.

All catch of groundfish sideboard species made by non-exempt AFA catcher vessels, whether as targeted catch or incidental catch, will be deducted from the 2009 and 2010 sideboard limits listed in Table 13.

TABLE 13—FINAL 2009 AND 2010 AMERICAN FISHERIES ACT CATCHER VESSEL BSAI GROUNDFISH SIDEBOARD LIMITS

[Amounts are in metric tons]

Species	Fishery by area/gear/season	Ratio of 1995–1997 AFA CV catch to 1995–1997 TAC	2009 initial TAC [1]	2009 AFA catcher vessel sideboard limits	2010 initial TAC [1]	2010 AFA catcher vessel sideboard limits
Pacific cod	BSAI.					
	Jig gear	0.0000	2,207	0	2,413	0
	Hook-and-line CV	n/a	n/a	n/a	n/a	n/a
	Jan 1–Jun 10	0.0006	160	0	175	0
	Jun 10–Dec 31	0.0006	154	0	168	0
	Pot gear CV	n/a	n/a	n/a	n/a	n/a
	Jan 1–Jun 10	0.0006	6,719	4	7,349	4
	Sept 1–Dec 31	0.0006	6,455	4	7,061	4
	CV < 60 feet LOA using hook-and-line or pot gear.	0.0006	3,137	2	3,431	2
	Trawl gear CV.					
	Jan 20–Apr 1	0.8609	25,782	22,196	28,190	24,269
	Apr 1–Jun 10	0.8609	3,832	3,299	4,190	3,607
	Jun 10–Nov 1	0.8609	5,226	4,499	5,714	4,919
Sablefish	BS trawl gear	0.0906	1,156	105	1,071	97
	AI trawl gear	0.0645	468	30	429	28
Atka mackerel	Eastern AI/BS.					
	Jan 1–Apr 15	0.0032	12,056	39	10,225	33
	Sept 1–Nov 1	0.0032	12,056	39	10,225	33
	Central AI.					
	Jan–Apr 15	0.0001	14,512	1	12,726	1
	HLA limit	0.0001	8,707	1	7,636	1
	Sept 1–Nov 1	0.0001	14,512	1	12,726	1
	HLA limit	0.0001	8,707	1	7,636	1
	Western AI.					
	Jan–Apr 15	0.0000	7,546	0	8,796	0
	HLA limit	n/a	4,528	0	5,278	0
	Sept 1–Nov 1	0.0000	7,546	0	8,796	0
	HLA limit	n/a	4,528	0	5,278	0
Yellowfin sole [2]	BSAI	0.0647	187,530	n/a	160,740	n/a
Rock sole	BSAI	0.0341	80,370	2,741	66,975	2,284

TABLE 13—FINAL 2009 AND 2010 AMERICAN FISHERIES ACT CATCHER VESSEL BSAI GROUNDFISH SIDEBOARD LIMITS—Continued

[Amounts are in metric tons]

Species	Fishery by area/gear/season	Ratio of 1995–1997 AFA CV catch to 1995–1997 TAC	2009 initial TAC [1]	2009 AFA catcher vessel sideboard limits	2010 initial TAC [1]	2010 AFA catcher vessel sideboard limits
Greenland turbot	BS	0.0645	4,327	279	4,182	270
	AI	0.0205	1,947	40	1,879	39
Arrowtooth flounder	BSAI	0.0690	63,750	4,399	51,000	3,519
Alaska plaice	BSAI	0.0441	42,500	1,874	25,500	1,125
Other flatfish	BSAI	0.0441	14,790	652	14,790	652
Pacific ocean perch	BS	0.1000	3,247	325	3,213	321
	Eastern AI	0.0077	3,751	29	3,715	29
	Central AI	0.0025	3,804	10	3,760	9
	Western AI	0.0000	5,822	0	5,760	0
Northern rockfish	BSAI	0.0084	7,160	60	6,000	50
Shortraker rockfish	BSAI	0.0037	387	1	387	1
Rougheye rockfish	BSAI	0.0037	539	2	552	2
Other rockfish	BS	0.0048	485	2	485	2
	AI	0.0095	472	4	472	4
Squid	BSAI	0.3827	1,675	641	1,675	641
Other species	BSAI	0.0541	42,500	2,299	29,088	1,574
Flathead sole	BS trawl gear	0.0505	53,580	2,706	44,650	2,255

[1] Aleutians Islands Pacific ocean perch, and BSAI Atka mackerel, flathead sole, rock sole, yellowfin sole, are multiplied by the remainder of the TAC of that species after the subtraction of the CDQ reserve under § 679.20(b)(1)(ii)(C).

[2] Section 679.64(b)(6) exempts AFA catcher vessels from a yellowfin sole sideboard limit because the 2009 and 2010 aggregate ITAC of yellowfin sole assigned to the Amendment 80 sector and BSAI trawl limited access sector (187,530 mt in 2009 and 160,740 mt in 2010) is greater than 125,000 mt.

Halibut and crab PSC limits listed in Table 14 that are caught by AFA catcher vessels participating in any groundfish fishery for groundfish other than pollock will accrue against the 2009 and 2010 PSC sideboard limits for the AFA catcher vessels. Sections 679.21(d)(8) and (e)(3)(v) authorize NMFS to close directed fishing for groundfish other than pollock for AFA catcher vessels once a 2009 or 2010 PSC sideboard limit listed in Table 14 is reached. The PSC that is caught by AFA catcher vessels while fishing for pollock in the BSAI will accrue against the bycatch allowances annually specified for either the midwater pollock or the pollock/Atka mackerel/''other species'' fishery categories under regulations at § 679.21(e)(3)(iv).

TABLE 14—FINAL 2009 AND 2010 AMERICAN FISHERIES ACT CATCHER VESSEL PROHIBITED SPECIES CATCH SIDEBOARD LIMITS FOR THE BSAI [1]

[Amounts are in metric tons]

PSC species	Target fishery category [2]	AFA catcher vessel PSC sideboard limit ratio	2009 and 2010 PSC limit after subtraction of PSQ reserves	2009 and 2010 AFA catcher vessel PSC sideboard limit
Halibut	Pacific cod trawl	n/a	n/a	887
	Pacific cod hook-and-line or pot	n/a	n/a	2
	Yellowfin sole total	n/a	n/a	101
	Rock sole/flathead sole/other flatfish total [4]	n/a	n/a	228
	Turbot/arrowtooth/sablefish	n/a	n/a	0
	Rockfish (June 1–December 31)	n/a	n/a	2
	Pollock/Atka mackerel/other species	n/a	n/a	5
Red king crab Zone 1 [3]	n/a	0.299	175,921	52,600
C. opilio COBLZ [3]	n/a	0.168	3,884,550	652,604
C. bairdi Zone 1 [3]	n/a	0.330	875,140	288,796
C. bairdi Zone 2 [3]	n/a	0.186	2,652,210	493,311

[1] Halibut amounts are in metric tons of halibut mortality. Crab amounts are in numbers of animals.

[2] Target fishery categories are defined in regulation at § 679.21(e)(3)(iv).

[3] Refer to § 679.2 for definitions of areas.

[4] ''Other flatfish'' for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, and arrowtooth flounder.

AFA Catcher/Processor and Catcher Vessel Sideboard Directed Fishing Closures

The Regional Administrator has determined that many of the AFA catcher/processor and catcher vessel sideboard limits listed in Tables 15 and 16 are necessary as incidental catch to support other anticipated groundfish fisheries for the 2009 fishing year. In accordance with § 679.20(d)(1)(iv), the Regional Administrator establishes the sideboard limits listed in Tables 15 and 16 as DFAs. The Regional Administrator finds that many of these DFAs will be reached before the end of the year. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing by listed AFA catcher/processors for the species in the specified areas set out in Table 15 and directed fishing by non-exempt AFA catcher vessels for the species in the specified areas set out in Table 16.

TABLE 15—FINAL 2009 AND 2010 AMERICAN FISHERIES ACT LISTED CATCHER/PROCESSOR SIDEBOARD DIRECTED FISHING CLOSURES [1]

[Amounts are in metric tons]

Species	Area	Gear types	2009 sideboard limit	2010 sideboard limit
Sablefish trawl	BS	trawl	18	17
	AI	trawl	0	0
Rock sole	BSAI	all	2,974	2,478
Greenland turbot	BS	all	30	29
	AI	all	10	9
Arrowtooth flounder	BSAI	all	128	102
Flathead sole	BSAI	all	1,929	1,607
Pacific ocean perch	BS	all	6	6
	Eastern AI	all	75	74
	Central AI	all	4	4
	Western AI	all	23	23
Northern rockfish	BSAI	all	50	42
Shortraker rockfish	BSAI	all	7	7
Rougheye rockfish	BSAI	all	10	10
Other rockfish	BS	all	14	14
	AI	all	13	13
Squid	BSAI	all	37	37
"Other species"	BSAI	all	340	233

[1] Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.

TABLE 16—FINAL 2009 AND 2010 AMERICAN FISHERIES ACT CATCHER VESSEL SIDEBOARD DIRECTED FISHING CLOSURES [1]

[Amounts are in metric tons]

Species	Area	Gear types	2009 sideboard limit	2010 sideboard limit
Pacific cod	BSAI	hook-and-line	0	0
	BSAI	pot	10	10
	BSAI	jig	0	0
Sablefish	BS	trawl	105	97
	AI	trawl	30	28
Atka mackerel	Eastern AI/BS	all	78	66
	Central AI	all	2	2
	Western AI	all	0	0
Greenland turbot	BS	all	279	270
	AI	all	40	39
Arrowtooth flounder	BSAI	all	4,399	3,519
Flathead sole	BSAI	all	2,706	2,255
Rock sole	BSAI	all	2,741	2,284
Pacific ocean perch	BS	all	325	321
	Eastern AI	all	29	29
	Central AI	all	10	9
	Western AI	all	0	0
Northern rockfish	BSAI	all	60	50
Shortraker rockfish	BSAI	all	1	1
Rougheye rockfish	BSAI	all	2	2
Other rockfish	BS	all	2	2
	AI	all	4	4
Squid	BSAI	all	641	641
"Other species"	BSAI	all	2,299	1,574

[1] Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.

Response to Comments

NMFS received two letters of comment in support and one letter of comment opposed to the proposed 2009 and 2010 harvest specifications. NMFS has organized these letters into 30 comments. These comments are summarized and responded to below.

Comment 1: Adopt tier 3 designation for Eastern Bering Sea pollock.

Response: Groundfish fisheries are managed at tiers 1 through 6 based on the level of information available for determining maximum sustainable yield and biomass. Fisheries with more reliable information are managed at lower tier numbers. In November 2008, the Council's BSAI Plan Team reviewed the information available for the Bering Sea pollock fishery and recommended that the fishery should be managed at the tier 1b level. At the December 2008, Council meeting, the SSC concurred with the BSAI Plan Team and the stock assessment authors that the appropriate designation is tier 1b. The SSC further noted that there is sufficient information to determine B_{msy} and the probability density function for F_{msy}. Because of this, NMFS believes that it is appropriate for the Council to adopt an OFL and TAC based on tier 1b status for Eastern Bering Sea pollock.

Comment 2: Suspend fishing on spawning aggregations and restore Winter Halibut Savings Area closure.

Response: The Winter Halibut Savings Area (located to the north of the eastern Aleutian Islands) was established to protect juvenile halibut from the effects of trawling during the winter months. It was one of the earliest measures to implement fishing restrictions in the Alaska groundfish fisheries following passage of the Magnuson-Stevens Fishery Conservation and Management Act in 1976. This savings area was in effect as the Alaska groundfish fishery transitioned from a foreign fishery to a domestic fishery, but was superseded by more applicable management protection areas and fisheries closures as the domestic groundfish fisheries matured, including PSC limits for halibut. Current stock assessment models account for fishing mortality. Whether the fish is harvested in or out of the spawning season yields the same mortality upon the stock.

Comment 3: Develop proposals for creation of no-take marine reserves in order to serve as experimental control areas which will increase the understanding of climate impacts and fulfill the Council's obligations under the Steller sea lion (SSL) Recovery Plan.

Response: This comment is beyond the scope of the annual harvest specifications for groundfish in the Bering Sea and Aleutian Islands. No-take reserves are not warranted absent specific research projects. NMFS has and continues to fund, conduct, and coordinate numerous scientific studies and research projects in the Bering Sea, including ones associated with climate and ecosystem changes. We believe the SSL recovery plan has been appropriately implemented, and NMFS continues to assess the recovery status of the western SSL population.

Ongoing research efforts such as that undertaken by the Alaska Fisheries Science Center and the Bering Sea Integrated Ecosystem Research Program (*http://bsierp.nprb.org*) are studying many focal areas of this ecosystem, including a range of oceanographic, climate, and atmospheric studies. As additional data about the effects of climate or other ecosystem changes on fish becomes available, it will be integrated into NMFS' stock assessment efforts.

Comment 4: A council member dismissed the significance of a letter from the public. This indicates a greater need for NMFS oversight.

Response: NMFS is not responsible for, and does not have the authority to regulate the opinions of individual Council members who are not NMFS employees. However, the Secretary of Commerce does have the responsibility to review Council actions to ensure compliance with the Magnuson-Stevens Act (MSA) and other applicable public laws. NMFS carries out these reviews on behalf of the Secretary of Commerce. The opinion of an individual Council member will not influence the Secretary of Commerce in conducting the required and appropriate oversight of Council actions.

Comment 5: Pollock catch limits may have effects upon other species (including pinnipeds) and the ecosystem as a whole.

Response: NMFS agrees that the removal of pollock from the marine ecosystem may have impacts on parts of the ecosystem dependent on pollock (e.g., marine mammals), and includes ecosystem considerations in the annual stock assessments used for determining catch limits. NMFS analyzed the impacts of the federal groundfish fisheries on the North Pacific ecosystem in the Alaska Groundfish Harvest Specifications Final Environmental Impact Statement (January 2007). NMFS is also involved in comprehensive Bering Sea ecosystem studies (*see* comment 3). Furthermore, in the 2008 SAFE, a large section is devoted to ecosystem considerations. As these endeavors produce scientifically valid information, it is applied to catch limits, and other applicable management measures.

Comment 6: Eastern Bering Sea pollock stocks declined about 20 percent per year between 2003 and 2007.

Response: NMFS concurs that this is true between 2004 and 2007 for estimates of biomass for age 3+ fish. This has resulted in a reduction of OFL and ABC levels in recent years. It should be noted that when the 2006 recruitment year of pollock reaches the age of 3, the age 3+ biomass estimate is expected to rapidly increase.

Comment 7: The 2008 hydroacoustic survey showed a roughly 50 percent drop in Eastern Bering Sea pollock from 2007.

Response: NMFS agrees with this statement. This is one factor in the models that produced lower OFL and ABC levels in 2009 compared to previous years. However, as the 2006 year class matures, the biomass, OFLs, and ABCs are expected to increase (see comment 6).

Comment 8: The 2008 bottom trawl survey has the second lowest catch of Eastern Bering Sea pollock on record.

Response: NMFS agrees with this statement (see comments 6 and 7).

Comment 9: The 2009 spawning stock biomass for Eastern Bering Sea pollock is predicted to be 26 percent below B_{msy}.

Response: NMFS agrees with this statement. Despite the current low Eastern Bering Sea pollock spawning stock biomass, models suggest that the spawning stock will exceed B_{msy} in 2010. This is because the 2006 year class will begin to enter the spawning stock biomass at that time.

Comment 10: Recruitment of Eastern Bering Sea pollock was below average for most recent years.

Response: Recruitment in the Eastern Bering Sea pollock stock is characterized by periodic individual high recruitment years. Because of this, most aggregations of consecutive years throughout the available time series will result in below average recruitment for most years. Therefore, this is not an appropriate measure of the health of the stock. It should be noted that 2006 was a year of high pollock recruitment, and that this year class should recruit into the fishery in 2010.

Comment 11: The most recent Biological Opinions concluded that groundfish fisheries jeopardize the survival and recovery of Steller sea lions when pollock abundance was higher than current levels.

Response: The most recent biological opinion was completed in 2001 and analyzed the effects of the Alaska

groundfish fisheries on Steller sea lions and their designated critical habitat. This opinion concluded that the groundfish fisheries conducted within the Steller sea lion protection measures would not likely jeopardize the Steller sea lion's existence or result in adverse modification or destruction of critical habitat. NMFS implemented numerous measures to protect SSL in 2003. This includes the establishment of large fishery closures areas, harvest limits, and seasonal distribution of harvest for the pollock, Pacific cod, and Atka mackerel fisheries. Because the protection measures include a harvest control rule that reduces fishing effort with falling pollock abundance, the current measures take into account the potential for falling biomass and the need to reduce fishing as pollock abundance drops.

Comment 12: Northern fur seal populations have dropped from 2 million to about 0.6 million during the course of the pollock fishery.

Response: While there are not specific protection measures in place for northern fur seals with respect to the Bering Sea groundfish fisheries, NMFS has implemented several protection measures associated with the Pribilof Islands and surrounding waters. This includes, the Pribilof Island Habitat Conservation Zone, which is closed to trawling, a three nautical mile no groundfish fishing site around Walrus Island (east of St. Paul Island) and five pollock fishing closure areas in and around the Pribilof Islands.

Comment 13: Other pollock fisheries are at low levels and the Bogoslof fishery is closed.

Response: The Bogoslof pollock fishery remains closed resulting from an international agreement to prohibit fishing in the international waters of the Bering Sea until stocks reach 1 million mt. The Aleutian Island pollock fishery is open to directed fishing. However, fishing remains light due to the fact that most of the productive fishing areas remain closed to fishing in order to protect Steller sea lions. Despite this lack of fishing pressure, NMFS acknowledges that these stocks remain at levels lower than historic highs, and that the OFLs and ABCs for these stocks have been set accordingly.

Comment 14: Climate change has been proposed as a cause of declining stocks through a mechanism of pollock migrating to Russian waters, but recent years have been cold.

Response: The current models used to calculate OFL and ABC are largely based upon survey data, and do not incorporate migration of stocks to Russian waters. However, NMFS does believe that it is important to explore alternative hypotheses, and to incorporate climate change and ecosystem factors into fisheries management whenever it is appropriate and scientifically sound. These considerations are included in the ecosystems chapter to the SAFE reports and are considered in the development of the stock assessments.

Comment 15: Climate driven change will increase the margin of error, thus more conservative estimates should be adopted.

Response: NMFS believes that the harvest specification process has been developed using precautionary principles. While NMFS believes that climate change may in fact reduce the certainty of stock assessments, NMFS also believes that this uncertainty will be apparent in the surveys and models used to estimate the health of fish stocks. Thus, this uncertainty will be included in models and the OFLs and ABCs will be set accordingly.

Comment 16: From 1998 to 2007, 49 percent of the A season pollock catch was concentrated in the Steller Sea Lion conservation area, which puts fishing pressure on the spawning stock.

Response: NMFS agrees with this statement. Any harvest of mature fish will apply fishing pressure to the spawning stock. This is true in both the A and B fishing seasons (*see* comment 2). Fishing mortality is an integral part of the Eastern Bering Sea pollock stock assessment and is a major factor considered when setting OFL and ABC limits. NMFS believes that the recommendations produced by the SAFE report authors and the BSAI Plan Team minimize danger to the stocks from excessive fishing pressure. This process is reviewed by the SSC and the Center for Independent Experts.

Comment 17: Incidental catch of juvenile pollock should be considered.

Response: NMFS fisheries observers during 2008 recorded that the incidental catch of small, i.e., juvenile pollock was low. However, the fishing mortality of juvenile pollock is incorporated into models used to project OFL, ABC, and the future health of pollock stocks.

Comment 18: Bycatch of other species such as Chinook and non-chinook salmon should be considered.

Response: NMFS and the Council have taken and are taking action to reduce salmon bycatch in the pollock trawl fishery because of the potential for negative impacts on salmon stocks, and bycatch in general for all fisheries. Existing measures have reduced salmon bycatch rates in the pollock fishery compared with what they would have been without the measures. NMFS and the Council are engaged in a comprehensive process to evaluate these existing measures and develop alternative measures that may be necessary to further reduce salmon bycatch. Applicable Federal law requires that bycatch be minimized to the extent practicable and establishes processes for assessment and responsive implementation of appropriate management measures if and when warranted.

Comment 19: The rigorous scientific process used to develop the Council recommendations should be acknowledged.

Response: NMFS agrees. NMFS also believes that this has been acknowledged, and that the practices used by the Council have been codified in the MSA to require regional fishery management councils to not exceed recommendations of their SSCs.

Comment 20: The process is open, transparent, and the related information is widely available to the public.

Response: NMFS agrees with this statement.

Comment 21: The Council recommendation of Eastern Bering Sea pollock ABC and TAC of 815,000 mt is consistent with the recommendations of the SSC, the BSAI Plan Team, and the stock assessment author.

Response: NMFS agrees with this statement (see comment 1).

Comment 22: The 2009 Eastern Bering Sea pollock assessment is supported by three consecutive years of benthic trawl and hydroacoustic trawl survey data.

Response: NMFS agrees with this statement.

Comment 23: The assessment concludes that the probability of the Eastern Bering Sea pollock stock falling below B20 percent is very low.

Response: NMFS agrees that this is consistent with the findings of the stock assessment authors and the review of the SSC, and that as the 2006 year class enters the fishery, the stocks are likely to return to B_{msy} (see comment 9).

Comment 24: The SSC concluded that the Eastern Bering Sea pollock stock should be considered tier 1b because there is sufficient data to determine the B_{msy}, and the probability density function for F_{msy}.

Response: NMFS agrees that this is consistent with the findings of the SSC.

Comment 25: The Eastern Bering Sea pollock stock assessment authors, the SAFE, and the SSC cite strong scientific evidence that the 2006 year class appears to be strong, and that there is a strong likelihood that the Eastern Bering Sea pollock stock will approach B_{msy} by 2010.

Response: NMFS agrees with this statement (*see* comment 9).

Comment 26: The Eastern Aleutian Island subarea is the only region with consistently increasing Steller sea lion counts.

Response: NMFS agrees with this statement. However, NMFS also believes that one sub-area is an insufficient indicator of the western Steller sea lion stock abundance trend overall, as other subarea counts have consistently declined or remained unchanged over time.

Comment 27: The precautionary approach used to determine the 2009 harvest specifications provide protection for Steller sea lions consistent with existing mitigation requirements.

Response: NMFS agrees with this statement.

Comment 28: The Bogoslof pollock stocks are large enough to allow a directed fishery. However by international agreement, this stock will remain closed until there is enough fish to also support a fishery in the international waters of the Bering Sea.

Response: NMFS agrees (*see* comment 13).

Comment 29: The Aleutian Island pollock fishery is large enough to support a directed fishery, but that this fishery is effectively limited through closure areas intended to protect Steller sea lions.

Response: NMFS agrees that very little of the Aleutian Island pollock TAC is likely to be harvested due to Steller sea lion protection measures and the location of pollock.

Comment 30: New large Marine Protection Areas are not needed to protect Bering Sea pollock stocks.

Response: NMFS agrees that these new areas are not currently warranted (*see* comment 3).

Classification

NMFS has determined that these final harvest specifications are consistent with the FMP and with the Magnuson-Stevens Act and other applicable laws.

This action is authorized under 50 CFR 679.20 and is exempt from review under Executive Order 12866.

NMFS prepared a Final EIS for this action and made it available to the public on January 12, 2007 (72 FR 1512). On February 13, 2007, NMFS issued the Record of Decision (ROD) for the Final EIS. In January 2009, NMFS prepared a Supplemental Information Report (SIR) for this action. Copies of the Final EIS, ROD, and SIR for this action are available from NMFS (see **ADDRESSES**). The Final EIS analyzes the environmental consequences of the groundfish harvest specifications and alternative harvest strategies on resources in the action area. The SIR evaluates the need to prepare a Supplemental EIS (SEIS) for the 2009 and 2010 groundfish harvest specifications.

A SEIS should be prepared if (1) the agency makes substantial changes in the proposed action that are relevant to environmental concerns, or (2) significant new circumstances or information exist relevant to environmental concerns and bearing on the proposed action or its impacts (40 CFR 1502.9(c)(1)). After reviewing the information contained in the SIR and SAFE reports, the Administrator, Alaska Region, has determined that (1) approval of the 2009 and 2010 harvest specifications, which were set according to the preferred harvest strategy in the Final EIS, do not constitute a change in the action; and (2) there are no significant new circumstances or information relevant to environmental concerns and bearing on the action or its impacts. Additionally, the 2009 and 2010 harvest specifications will result in environmental impacts within the scope of those analyzed and disclosed in the Final EIS. Therefore, supplemental National Environmental Protection Act (NEPA) documentation is not necessary to implement the 2009 and 2010 harvest specifications.

The proposed harvest specifications were published in the **Federal Register** on December 10, 2008 (73 FR 75059). An Initial Regulatory Flexibility Analysis (IRFA) was prepared to evaluate the impacts on small entities of alternative harvest strategies for the groundfish fisheries in the Exclusive Economic Zone (EEZ) off Alaska on small entities. The public comment period ended on January 9, 2009. No comments were received regarding the IRFA or the economic impacts of this action. A Final Regulatory Flexibility Analysis (FRFA) was prepared that meets the statutory requirements of the Regulatory Flexibility Act of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601–612). Copies of the IRFA and FRFA prepared for this action are available from NMFS, Alaska Region (*see* **ADDRESSES**).

Each year, NMFS promulgates a rule establishing the harvest specifications pursuant to the adopted harvest strategy. While the harvest specification numbers may change from year to year, the harvest strategy for establishing those numbers does not change. Therefore, the impacts discussed in the IRFA are essentially the same. NMFS considers the annual rulemakings establishing the harvest specification numbers to be a series of closely related rules stemming from the harvest strategy and representing one rule for purposes of the Regulatory Flexibility Act (5 U.S.C. 605(c)). A summary of the FRFA follows.

The action analyzed in the IRFA is the adoption of a harvest strategy to govern the catch of groundfish in the BSAI. The preferred alternative is the status quo harvest strategy in which TACs fall within the range of ABCs recommended by the Council's harvest specification process and TACs recommended by the Council. This action is taken in accordance with the FMP prepared by the Council pursuant to the Magnuson-Stevens. Significant issues raised by public comment are addressed in the preamble and not repeated here.

The directly regulated small entities include approximately 810 small catcher vessels, fewer than 20 small catcher/processors, and six CDQ groups. The entities directly regulated by this action are those that harvest groundfish in the exclusive economic zone of the BSAI and in parallel fisheries within State of Alaska waters. These include entities operating catcher vessels and catcher/processor vessels within the action area, and entities receiving direct allocations of groundfish. Catcher vessels and catcher/processors were considered to be small entities if their annual gross receipts from all economic activities, including the revenue of their affiliated operations, totaled $4 million per year or less. Data from 2006 were the most recent available to determine the number of small entities.

Estimates of first wholesale gross revenues for the BSAI non-CDQ and CDQ sectors were used as indices of the potential impacts of the alternative harvest strategies on small entities. Revenues were projected to decline from 2006 levels in 2007 and 2008 under the preferred alternative due to declines in ABCs for economically key groundfish species.

The preferred alternative (Alternative 2) was compared to four other alternatives. These included Alternative 1, which would have set TACs to generate fishing rates equal to the maximum permissible ABC (if the full TAC were harvested), unless the sum of TACs exceeded the BSAI optimum yield, in which case TACs would have been limited to the optimum yield. Alternative 3 would have set TACs to produce fishing rates equal to the most recent five-year average fishing rates. Alternative 4 would have set TACs to equal the lower limit of the BSAI optimum yield range. Alternative 5 would have set TACs equal to zero.

Alternative 5 is the ''no action'' alternative.

Alternatives 3, 4, and 5 produced smaller first wholesale revenue indices for both non-CDQ and CDQ sectors than Alternative 2. Alternative 1 revenues were the same as Alternative 2 revenues in the BSAI for both sectors. Moreover, higher Alternative 1 TACs are associated with maximum permissible ABCs, while Alternative 2 TACs are associated with the ABCs that have been recommended to the Council by the Plan Team and the SSC, and more fully consider other potential biological issues. For these reasons, Alternative 2 is the preferred alternative.

This action does not modify recordkeeping or reporting requirements, or duplicate, overlap, or conflict with any Federal rules.

Adverse impacts on marine mammals resulting from fishing activities conducted under these harvest specifications are discussed in the Final EIS (*see* **ADDRESSES**).

Pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator for Fisheries, NOAA, finds good cause to waive the 30-day delay in effectiveness for this rule. Plan Team review occurred in November 2008, and Council consideration and recommendations occurred in December 2008. Accordingly, NMFS review could not begin until January 2009. For all fisheries not currently closed because the TACs established under the 2008 and 2009 final harvest specifications (73 FR 10160, February 26, 2008) were not reached, the likely possibility exists that they will be closed prior to the expiration of a 30-day delayed effectiveness period because their TACs could be reached. Certain fisheries, such as those for pollock and Pacific cod are intensive, fast-paced fisheries. Other fisheries, such as those for flatfish, rockfish, and ''other species,'' are critical as directed fisheries and as incidental catch in other fisheries. U.S. fishing vessels have demonstrated the capacity to catch the TAC allocations in these fisheries. Any delay in allocating the final TACs in these fisheries would cause disruption to the industry and potential economic harm through unnecessary discards. Determining which fisheries may close is impossible because these fisheries are affected by several factors that cannot be predicted in advance, including fishing effort, weather, movement of fishery stocks, and market price. Furthermore, the closure of one fishery has a cascading effect on other fisheries by freeing-up fishing vessels, allowing them to move from closed fisheries to open ones, increasing the fishing capacity in those open fisheries and causing them to close at an accelerated pace.

If the final harvest specifications are not effective by March 21, 2009, which is the start of the 2009 Pacific halibut season as specified by the IPHC, the hook-and-line sablefish fishery will not begin concurrently with the Pacific halibut season. This would result in the needless discard of sablefish that are caught along with Pacific halibut as both hook-and-line sablefish and Pacific halibut are managed under the same IFQ program. Immediate effectiveness of the final 2009 and 2010 harvest specifications will allow the sablefish fishery to begin concurrently with the Pacific halibut season. Also, the immediate effectiveness of this action is required to provide consistent management and conservation of fishery resources based on the best available scientific information, and to give the fishing industry the earliest possible opportunity to plan its fishing operations. Therefore NMFS finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3).

Small Entity Compliance Guide

The following information is a plain language guide to assist small entities in complying with this final rule as required by the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule's primary purpose is to announce the final 2009 and 2010 harvest specifications and prohibited species bycatch allowances for the groundfish fisheries of the BSAI. This action is necessary to establish harvest limits and associated management measures for groundfish during the 2009 and 2010 fishing years and to accomplish the goals and objectives of the FMP. This action affects all fishermen who participate in the BSAI fisheries. The specific amounts of OFL, ABC, TAC, and PSC are provided in tables to assist the reader. NMFS will announce closures of directed fishing in the **Federal Register** and information bulletins released by the Alaska Region. Affected fishermen should keep themselves informed of such closures.

Authority: 16 U.S.C. 773 *et seq.*; 16 U.S.C. 1540(f); 16 U.S.C. 1801 *et seq.*; 16 U.S.C. 3631 *et seq.*; Pub. L. 105–277; Pub. L. 106–31; Pub. L. 106–554; Pub. L. 108–199; Pub. L. 108–447; Pub. L. 109–241; Pub. L. 109–479.

Dated: February 9, 2009.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. E9–3297 Filed 2–13–09; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 74, No. 30
Tuesday, February 17, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 170

[Docket No. PRM–170–6; NRC–2008–0496]

Technical Specifications Task Force; Denial of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking: Denial.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is denying a petition for rulemaking (PRM–170–6) submitted by the Technical Specifications Task Force (TSTF), which is a jointly sponsored activity of the Pressurized Water Reactor Owners Group and the Boiling Water Reactor Owners' Group. The petition requests that the NRC amend its regulations to provide an explicit exemption from NRC review fees for activities associated with generic improvements to the Improved Standard Technical Specifications (ISTS). The NRC is denying the petition because the petition presents issues that the NRC has already carefully considered and addressed. Also, the petition fails to present any significant new information or arguments that would warrant the requested amendment.

ADDRESSES: You can access publicly available documents related to this petition for rulemaking using the following methods:

Federal e-Rulemaking Portal: Go to *http://www.regulations.gov* and search for documents filed under Docket ID [NRC–2008–0496]. Address questions about NRC dockets to Carol Gallagher 301–492–3668; e-mail *Carol.Gallagher@nrc.gov.*

NRC's Public Document room (PDR): The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Public File Area O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr.resource@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Rebecca I. Erickson, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone 301–415–7126; e-mail *Rebecca.Erickson@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Nuclear Regulatory Commission (NRC) is required each year, under the Omnibus Budget Reconciliation Act of 1990 (OBRA–90), as amended, (42 U.S.C. 2214) to recover approximately 90 percent of its budget authority, less the amounts appropriated from the Nuclear Waste Fund (NWF), amounts appropriated for Waste Incidental to Reprocessing (WIR) activities, and amounts appropriated for generic homeland security activities, through fees to NRC licensees and applicants.

The NRC assesses two types of fees to meet the requirements of OBRA–90, as amended. First, license and inspection fees, established in 10 CFR part 170 under the authority of the Independent Offices Appropriation Act of 1952 (IOAA) (31 U.S.C. 9701), recover the NRC's costs of providing special benefits to identifiable applicants and licensees. Second, annual fees established in 10 CFR part 171 under the authority of OBRA–90, as amended, recover generic and other regulatory costs not otherwise recovered through 10 CFR part 170 fees.

There are fee exemption provisions under both 10 CFR part 170 and 171. At the time the NRC became a separate regulatory agency on January 19, 1975, there were nine exemptions in effect in § 170.11(a). Changes have been made to the original nine exemptions.

Before the fiscal year (FY) 2002 final fee rule became effective, an exemption for Part 170 fees was part of footnote 4 to § 170.21 and footnote 5 to § 170.31. The NRC continued to receive requests for fee exemptions that did not meet the intent of the waiver provisions. The NRC determined that footnote 4 to § 170.21, footnote 5 to § 170.31, and material in the definition of ''Special Projects'' in § 170.3 concerning these types of requests and reports provided information that was more suitable for inclusion in § 170.11, ''Exemptions.'' As a result, in the FY 2002 fee rule (67 FR 42629; June 24, 2002), the NRC removed the language relating to certain reports and requests submitted to the NRC for review from the definition of ''Special Projects'' in § 170.3, removed footnote 4 to § 170.21, and removed footnote 5 to § 170.31. The NRC also added paragraph (a)(1) to § 170.11.

The NRC revised the fee waiver provision to specifically state that the fee waiver criteria would apply only when it was demonstrated that the report or request had been submitted to the NRC for the specific purpose of supporting the generic regulatory improvements or efforts of the NRC, rather than the industry, and that the NRC, at the time of the submission, planned to use the submission for that purpose. The amendment also clarified that the waiver provisions would not apply to reports or documents submitted for the NRC's review that the NRC, at the time of the submission, did not plan to use to improve its regulatory program. Therefore, since these reviews would primarily provide a special benefit to identifiable recipients, such as individual members of the public, industry entities, vendors, or specific licensees, a fee waiver would not be available. This clarification is stated in § 170.11(a)(1)(iii):

(C) Fees will not be waived for reports/requests that are not submitted specifically for the purpose of supporting the NRC's generic regulatory improvements or efforts, because the primary beneficiary of the NRC's review and approval of such documents is the requesting organization. In this case, the waiver provision does not apply even though the NRC may realize some benefits from its review and approval of the document.

(D) An example of the type of document that does not meet the fee waiver criteria is a topical report submitted for the purpose of obtaining NRC approval so that the report can be used by the industry in the future to address licensing or safety issues.

The fee waiver provisions in § 170.11(a)(1) have not changed after FY 2002, with the exception of § 170.11(a)(1)(iii)(A)(3), which was added by the FY 2005 fee rule amendment (70 FR 30543; May 26, 2005). This provision specifies that a fee exemption request must be made in writing to the NRC's Chief Financial Officer who must address the request in writing.

The Petition

The petitioner requests that NRC amend 10 CFR 170.11, ''Exemptions'' to provide an exemption for activities associated with generic improvements to the ISTS to make the regulations consistent with the Commission's Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors (signed on July 16, 1993, and published on July 22, 1993; 58 FR 39132). The Policy Statement states that ISTS have been developed and will be maintained. It also states that the NRC will, consistent with its mission, allocate resources as necessary to implement the Policy Statement. The petitioner states that, contrary to the Policy Statement, in 2003, the NRC began assessing fees for the review of industry actions to maintain the ISTS, known as ''Travelers.'' According to the petitioner, this placed the entire burden of maintaining the ISTS on the industry, which has subsequently paid over $750,000 in fees.

The petitioner states that it has repeatedly requested fee exemptions from the NRC for the review of Travelers and has almost always been rejected on the basis that § 170.11 does not contain a provision for exempting the activity. Therefore the petitioner requests that the NRC amend § 170.11 to provide an exemption for activities associated with generic improvements to the ISTS to make the regulations consistent with the Policy Statement. Specifically, the petitioner requests that a new paragraph be added as § 170.11(a)(1)(iii)(A)(4) to provide an exemption for activities associated with generic improvements to the ISTS.

The petitioner states that the imposition of review fees for the review of generic improvements to the ISTS is unduly burdensome. According to the petitioner, a direct result of the inconsistency between the Commission's Policy Statement and the provisions of 10 CFR 170.11 is that the industry owner's groups have paid over $750,000 in NRC review fees after 2003 for maintenance of the ISTS when the NRC's policy was that the NRC would allocate the resources for that activity.

The petitioner states that the current provisions of 10 CFR 170.11 are deficient in that the imposition of review fees for the review of generic improvements to the ISTS is inconsistent with NRC policy. The petitioner also states that the Consolidated Line Item Improvement Process (CLIIP) described in NRC Regulatory Information Summary 2000–06 contains a streamlined regulatory process describing how licensees can request license amendments based on NRC-approved Travelers. The petitioner believes the CLIIP process saves significant NRC resources by requiring an average of one-tenth of the hours for NRC review compared to a similar non-CLIIP amendment.

The petitioner estimates that after the initiation of the CLIIP process, over 500 license amendments have been approved that have saved the NRC more than 40 work-years of effort after FY 2001. The petitioner states that submittal of new Travelers by the nuclear industry has dropped from an average of 56 per year during 1995–2002 to an average of nine per year after the imposition of fees for Travelers reviews. The petitioner suggests that it is in the NRC's interest to support the CLIIP by encouraging the submittal of Travelers through the elimination of review fees.

To implement the NRC's policy properly, remove an undue burden on licensees, and improve the NRC's efficiency, the petitioner requests that § 170.11 be amended as suggested in its petition for rulemaking to provide an exemption from review fees for generic improvements to standard technical specifications. The petitioner believes there is adequate justification and precedent for the NRC to implement the provisions presented in this petition for rulemaking and requests that the NRC issue a proposed rule and direct final rule concurrently.

Reasons for Denial

The petition presents issues that have been carefully considered and addressed in earlier correspondence. The NRC informed the TSTF of the change in the fee exemption status for Travelers in a January 10, 2003, letter to the TSTF from W. D. Beckner, NRC Program Director (ADAMS Accession Number ML030100090). Mr. Beckner explained that the industry had not been assessed Part 170 fees for review of proposals to revise standard technical specifications (STS) because those proposals were used by the NRC to make generic regulatory improvements. Mr. Beckner also explained that for the most part those regulatory improvements had been achieved, and the review of the proposed STS changes being submitted to the NRC would primarily benefit specific licensees rather than enhancing the NRC regulatory process. Thus, future submissions would be subject to fees unless a fee exemption was allowed under 10 CFR 170.11(a)(1).

Further, the NRC received an April 28, 2006, letter from the TSTF on this same subject (ADAMS Accession Number ML061210034). NRC's Chief Financial Officer, J.L. Funches, explained in his June 14, 2006, response to the TSTF that the NRC's budgeted costs must be recovered, by law, through fees assessed to licensees and applicants (ADAMS Accession Number ML061650078). Mr. Funches also explained that the NRC's commitment to allocate budget resources to implement the Policy Statement is not related to the assessment of fees. Therefore, the NRC did not believe that its assessment of fees for review work of a Traveler was a contradiction to the Policy Statement.

The NRC continues to believe it is fair and appropriate to apply the fee exemption criteria in § 170.11 to all *Special projects* as defined under § 170.3, ''Definitions.'' The NRC is unable to determine in advance whether all Travelers will meet the fee exemption criteria; thus, the NRC must separately review each fee exemption request to determine whether the fee exemption criteria apply.

With regard to the use of the CLIIP process in saving significant NRC resources, although the NRC is committed to actions which promote the efficient use of NRC resources, providing a fee exemption based on a cost savings to the NRC is contrary to the IOAA. Under the authority of the IOAA, the NRC recovers the costs of providing special benefits to identifiable applicants and licensees. In response to the petition comment that the imposition of review fees is unduly burdensome on the industry, with extremely limited exceptions, the NRC does not base its fees on the economic circumstances of particular licensees or classes of licensees. If the NRC were to grant the petition, other licensees would be required to subsidize the Travelers through increased fees in order for the NRC to meet the requirements of OBRA–90.

The petitioner offers no new arguments for the NRC's consideration. Therefore, the NRC has determined that it would be an unwise expenditure of resources to conduct a rulemaking on this matter.

For these reasons, the Commission denies PRM–170–6.

Dated at Rockville, Maryland, this 5th day of February, 2009.

For the Nuclear Regulatory Commission.

J.E. Dyer,

Chief Financial Officer.

[FR Doc. E9–3144 Filed 2–13–09; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0035; Directorate Identifier 2008–NM–096–AD]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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

> Field experiences have revealed cracks in the frames and closing angle on the forward engine cowl door * * *.
>
> In case of a damaged frame and/or closing angle, the forward engine cowl door can loosen during flight and depart from the aircraft.
>
> * * * * *

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by March 19, 2009.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Saab Aircraft AB, SAAB Aerosystems, SE–581 88, Linköping, Sweden; telephone +46 13 18 5591; fax +46 13 18 4874; e-mail *saab2000.techsupport@saabgroup.com;* Internet *http://www.saabgroup.com.* You may review copies of the referenced 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.

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 proposed 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: 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:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2009–0035; Directorate Identifier 2008–NM–096–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2008–0069, dated April 11, 2008 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Field experiences have revealed cracks in the frames and closing angle on the forward engine cowl door NS STA [nacelle station] 203 and 250.
>
> In case of a damaged frame and/or closing angle, the forward engine cowl door can loosen during flight and depart from the aircraft.
>
> This AD is issued to require a detailed inspection to find out if there are any cracks [or deformations or wear damage] in the frames and/or the closing angles. The inspection is on four points on each of the forward engine cowl doors.
>
> The corrective action depends on if the crack, deformation, or wear damage is within or outside certain defined limits, and includes doing a repair either in accordance with the specified service information, or contacting Saab for repair instructions and doing the repair. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Saab has issued Service Bulletin 340–71–060, dated February 8, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect 141 products of U.S. registry. We also estimate that it would take 2 work-

hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $22,560, 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 proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Saab Aircraft AB: Docket No. FAA–2009–0035; Directorate Identifier 2008–NM–096–AD.

Comments Due Date

(a) We must receive comments by March 19, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Saab Model 340A (SAAB/SF340A) airplanes, serial numbers (S/Ns) 004 thorough 159 inclusive, and Model SAAB 340B airplanes, S/Ns 160 through 459 inclusive; certificated in any category.

Subject

(d) Air Transport Association (ATA) of America Code 71: Power Plant.

Reason

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

Field experiences have revealed cracks in the frames and closing angle on the forward engine cowl door NS STA [nacelle station] 203 and 250.

In case of a damaged frame and/or closing angle, the forward engine cowl door can loosen during flight and depart from the aircraft.

This AD is issued to require a detailed inspection to find out if there are any cracks [or deformations or wear damage] in the frames and/or the closing angles. The inspection is on four points on each of the forward engine cowl doors.

The corrective action depends on if the crack, deformation, or wear damage is within or outside certain defined limits, and includes doing a repair either in accordance with the specified service information, or contacting Saab for repair instructions and doing the repair.

Actions and Compliance

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

(1) Within 1,000 flight hours after the effective date of this AD, do a detailed inspection for cracking, deformation, or wear damage of the frame and closing angle on the forward engine cowl door, in accordance with the Accomplishment Instructions of Saab Service Bulletin 340–71–060, dated February 8, 2008.

(2) If any crack, deformation, or wear damage is found during the inspection required by paragraph (f)(1) of this AD, before further flight, do all applicable corrective actions in accordance with the Accomplishment Instructions of Saab Service Bulletin 340–71–060, dated February 8, 2008.

(3) Submit a report of the findings of the inspection required by paragraph (f)(1) of this AD to Saab at the address specified in Saab Service Bulletin 340–71–060, dated February 8, 2008. Submit the report at the applicable time specified in paragraph (f)(3)(i) or (f)(3)(ii) of this AD. The report must include the information specified in the ''Inspection Result Formula'' form in the service bulletin.

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

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

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: 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 appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) Airworthiness Directive 2008–0069, dated April 11, 2008, and Saab Service Bulletin 340–71–060, dated February 8, 2008, for related information.

Issued in Renton, Washington, on January 9, 2009.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–3264 Filed 2–13–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–319P]

Schedules of Controlled Substances: Placement of Tapentadol Into Schedule II

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule is issued by the Deputy Administrator of the Drug Enforcement Administration (DEA) to place the substance tapentadol, including its isomers, esters, ethers, salts and salts of isomers, esters, and ethers whenever the existence of such isomers, esters, ethers, and salts is possible, into schedule II of the Controlled Substances Act (CSA). This proposed action is based on a recommendation from the Assistant Secretary for Health of the Department of Health and Human Services (DHHS) and on an evaluation of the relevant data by DEA. If finalized, this action would impose the regulatory controls and criminal sanctions of schedule II on those who handle tapentadol and products containing tapentadol.

DATES: Written comments must be postmarked on or before March 19, 2009, and electronic comments must be sent on or before midnight Eastern time March 19, 2009.

ADDRESSES: To ensure proper handling of comments, please reference ''Docket No. DEA–319'' on all written and electronic correspondence. Written comments sent via regular or express mail should be sent to the Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODL, 8701 Morrissette Drive, Springfield, Virginia 22152. Comments may be sent to DEA by sending an electronic message to *dea.diversion.policy@usdoj.gov.* Comments may also be sent electronically through *http://www.regulations.gov* using the electronic comment form provided on that site. An electronic copy of this document is also available at the *http://www.regulations.gov* Web site. DEA will accept electronic comments containing MS Word, WordPerfect, Adobe PDF, or Excel file formats only. DEA will not accept any file format other than those specifically listed here.

Please note that DEA is requesting that electronic comments be submitted before midnight Eastern time on the day the comment period closes because *http://www.regulations.gov* terminates the public's ability to submit comments at midnight Eastern time on the day the comment period closes. Commenters in time zones other than Eastern time may want to consider this so that their electronic comments are received. All comments sent via regular or express mail will be considered timely if postmarked on the day the comment period closes.

FOR FURTHER INFORMATION CONTACT: Christine A. Sannerud, Ph.D., Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, Virginia 22152, *Telephone:* (202) 307–7183.

SUPPLEMENTARY INFORMATION:

Posting of Public Comments: Please note that all comments received are considered part of the public record and made available for public inspection online at *http://www.regulations.gov* and in the Drug Enforcement Administration's public docket. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also place all the personal identifying information you do not want posted online or made available in the public docket in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted online or made available in the public docket.

Personal identifying information and confidential business information identified and located as set forth above will be redacted and the comment, in redacted form, will be posted online and placed in the DEA's public docket file.

Please note that the Freedom of Information Act applies to all comments received. If you wish to inspect the agency's public docket file in person by appointment, please see the **FOR FURTHER INFORMATION CONTACT** paragraph.

Background

On November 20, 2008, the Food and Drug Administration (FDA) approved tapentadol for marketing in the United States as a prescription drug product for the treatment of moderate-to-severe acute pain. Tapentadol is a new molecular entity with centrally-acting analgesic properties.

Tapentadol has dual modes of action namely, mu (μ) opioid receptor agonistic action and inhibition of reuptake of norepinephrine at the norepinephrine transporter. The chemical name of its monohydrochloride salt form is 3-[(1*R*,2*R*)-3-(dimethylamino)-1-ethyl-2-methylpropyl]phenol hydrochloride.

Tapentadol shares substantial pharmacological effects and abuse potential with other schedule II opioid analgesics, e.g., morphine, oxycodone, and hydromorphone. Tapentadol has rewarding and reinforcing effects similar to those of morphine in animal models. It generalizes to the discriminative stimulus effects of morphine in rats and monkeys. Tapentadol, similar to morphine, produced conditioned place preference in rats, and this effect was antagonized by naloxone (anopioid receptor antagonist). In a clinical study with opioid-experienced non-dependent subjects, the subjective scores for drug liking of a single dose of tapentadol (50, 100 and 200 mg) were comparable to equianalgesic doses of hydromorphone (4, 8, and 16 mg). In clinical studies, tapentadol showed an adverse event profile similar to other schedule II opioids. The most commonly reported adverse events are nausea, dizziness, vomiting, somnolence, vertigo, and headache. In a clinical study in which the patients received equianalgesic doses of tapentadol or oxycodone for 90 days, the reports of withdrawal symptoms were comparable for both treatment groups upon discontinuance of administration. The ability of tapentadol to produce psychological dependence is suggested by a level of drug liking comparable to that produced by hydromorphone.

Since tapentadol is a new molecular entity, there has been no evidence of diversion, abuse, or law enforcement encounters involving the drug. On November 13, 2008, the Assistant Secretary for Health, DHHS, sent the Deputy Administrator of DEA a scientific and medical evaluation and a letter recommending that tapentadol be

placed into schedule II of the CSA. Enclosed with the November 13, 2008, letter was a document prepared by the FDA entitled, ''Basis for the Recommendation for Control of Tapentadol in Schedule II of the Controlled Substances Act.'' The document contained a review of the factors which the CSA requires the Secretary to consider (21 U.S.C. 811(b)).

The factors considered by the Assistant Secretary of Health and the DEA with respect to tapentadol were:

(1) Its actual or relative potential for abuse;

(2) Scientific evidence of its pharmacological effects;

(3) The state of current scientific knowledge regarding the drug;

(4) Its history and current pattern of abuse;

(5) The scope, duration, and significance of abuse;

(6) What, if any, risk there is to the public health;

(7) Its psychic or physiological dependence liability; and

(8) Whether the substance is an immediate precursor of a substance already controlled under this subchapter. (21 U.S.C. 811(c))

Based on the recommendation of the Assistant Secretary for Health, received in accordance with § 201(b) of the Act (21 U.S.C. 811(b)), and the independent review of the available data by DEA, the Deputy Administrator of DEA, pursuant to §§ 201(a) and 201(b) of the Act (21 U.S.C. 811(a) and 811(b)), finds that:

(1) Tapentadol has a high potential for abuse;

(2) Tapentadol currently has accepted medical use in treatment in the United States; and

(3) Abuse of tapentadol may lead to severe psychological or physical dependence.

Based on these findings, the Deputy Administrator of DEA concludes that tapentadol, including its isomers, esters, ethers, salts and salts of isomers, esters, and ethers whenever the existence of such isomers, esters, ethers, and salts is possible, warrants control in schedule II of the CSA. (21 U.S.C. 812 (b)(2))

Interested persons are invited to submit their comments, objections or requests for a hearing with regard to this proposal. Requests for a hearing should state, with particularity, the issues concerning which the person desires to be heard. All correspondence regarding this matter should be submitted to the DEA to the address provided above. In the event that comments, objections, or requests for a hearing raise one or more issues which the Deputy Administrator finds warrant a hearing, the Deputy Administrator shall order a public hearing by notice in the **Federal Register**, summarizing the issues to be heard and setting the time for the hearing.

Requirements for Handling Tapentadol

If this rule is finalized as proposed, tapentadol would be subject to the CSA regulatory controls and administrative, civil and criminal sanctions applicable to the manufacture, distribution, dispensing, importing, and exporting of a schedule II controlled substance, including the following:

Registration. Any person who manufactures, distributes, dispenses, imports, exports, engages in research or conducts instructional activities with tapentadol, or who desires to manufacture, distribute, dispense, import, export, engage in instructional activities or conduct research with tapentadol, would be required to be registered to conduct such activities in accordance with Part 1301 of Title 21 of the Code of Federal Regulations (CFR).

Security. Tapentadol would be subject to schedule II security requirements and must be manufactured, distributed and stored in accordance with §§ 1301.71, 1301.72(a), (c), and (d), 1301.73, 1301.74, 1301.75(b) and (c), 1301.76 and 1301.77 of Title 21 of the CFR.

Labeling and Packaging. All labels and labeling for commercial containers of tapentadol which are distributed after finalization of this rule would be required to comply with requirements of §§ 1302.03–1302.07 of Title 21 of the CFR.

Quotas. Quotas for tapentadol would be established pursuant to part 1303 of Title 21 of the CFR.

Inventory. Every registrant required to keep records and who possesses any quantity of tapentadol would be required to keep an inventory of all stocks of tapentadol on hand pursuant to §§ 1304.03, 1304.04 and 1304.11 of Title 21 of the CFR. Every registrant who desires registration in schedule II for tapentadol would be required to conduct an inventory of all stocks of the substance on hand at the time of registration.

Records. All registrants would be required to keep records pursuant to §§ 1304.03, 1304.04, 1304.21, 1304.22, and 1304.23 of Title 21 of the CFR.

Reports. All registrants required to submit reports to the Automation of Reports and Consolidated Order System (ARCOS) in accordance with § 1304.33 of Title 21 of the CFR would be required to do so for tapentadol.

Orders for tapentadol. All registrants involved in the distribution of tapentadol would be required to comply with the order form requirements of part 1305 of Title 21 of the CFR.

Prescriptions. All prescriptions for tapentadol or prescriptions for products containing tapentadol would be required to be issued pursuant to 21 CFR § 1306.03–1306.06 and 1306.11–1306.15.

Importation and Exportation. All importation and exportation of tapentadol would need to be in compliance with part 1312 of Title 21 of the CFR.

Criminal Liability. Any activity with tapentadol not authorized by, or in violation of, the CSA or the Controlled Substances Import and Export Act occurring on or after finalization of this proposed rule would be unlawful.

Regulatory Certifications

Executive Order 12866

In accordance with the provisions of the CSA (21 U.S.C. 811(a)), this action is a formal rulemaking ''on the record after opportunity for a hearing.'' Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and, as such, are exempt from review by the Office of Management and Budget pursuant to Executive Order 12866, section 3(d)(1).

Regulatory Flexibility Act

The Deputy Administrator, in accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612), has reviewed this proposed rule and by approving it certifies that it will not have a significant economic impact on a substantial number of small entities. Tapentadol products will be prescription drugs used for the treatment of moderate-to-severe acute pain. Handlers of tapentadol will also handle other controlled substances used to treat pain which are already subject to the regulatory requirements of the CSA.

Executive Order 12988

This regulation meets the applicable standards set forth in §§ 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform.

Executive Order 13132

This rulemaking does not preempt or modify any provision of state law; nor does it impose enforcement responsibilities on any state; nor does it diminish the power of any state to enforce its own laws. Accordingly, this rulemaking does not have federalism implications warranting the application of Executive Order 13132.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $120,000,000 or more (adjusted for inflation) in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act). This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices: or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign based companies in domestic and export markets.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Under the authority vested in the Attorney General by § 201(a) of the CSA (21 U.S.C. 811(a)), and delegated to the Administrator of the DEA by the Department of Justice regulations (28 CFR 0.100), and redelegated to the Deputy Administrator pursuant to 28 CFR 0.104, the Deputy Administrator hereby proposes that 21 CFR part 1308 be amended as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b) unless otherwise noted.

2. Section 1308.12 is amended in the table by adding a new paragraph (c)(28) to read as follows:

§ 1308.12 Schedule II.

* * * * *

(c) * * *

(28) Tapentadol 9780

* * * * *

Dated: January 27, 2009.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E9–3150 Filed 2–13–09; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 611

[Docket No. FTA–2006–25737]

RIN 2132–AA81

Major Capital Investment Projects

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of proposed rulemaking; withdrawal.

SUMMARY: This action withdraws a notice of proposed rulemaking (NPRM) concerning major capital investment projects published in the **Federal Register** on August 3, 2007 (72 FR 43328). FTA has determined that withdrawal of the NPRM is warranted due to an intervening statutory change.

FOR FURTHER INFORMATION CONTACT: Christopher Van Wyk, Office of Chief Counsel, Federal Transit Administration, 1200 New Jersey Ave., SE., East Building, Fifth Floor, Washington, DC 20590, (202) 366–4011 or *Christopher.VanWyk@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

On August 10, 2005, President Bush signed the Safe, Accountable, Flexible, and Efficient Transportation Equity Act—A Legacy for Users (SAFETEA–LU). Section 3011 of SAFETEA–LU made a number of changes to 49 U.S.C. 5309, which authorizes the Federal Transit Administration's (FTA) capital investment grant program. SAFETEA–LU also required that FTA issue regulations establishing an evaluation and rating process for the new Small Starts program. To effectuate the statutory changes and comply with the rulemaking requirement, FTA published an advance notice of proposed rulemaking on January 30, 2006 and a notice of proposed rulemaking (NPRM) on August 3, 2007. On June 6, 2008, the SAFETEA–LU Technical Corrections Act of 2008 (122 Stat. 1572) was signed into law, amending 49 U.S.C. 5309 to require that FTA ''give comparable, but not necessarily equal, numerical weight to each project justification criteria in calculating the overall project rating'' for both New Start and Small Start projects. The revisions to the statute require such a fundamental change in how FTA weighs the several project justification criteria that a new approach to rulemaking for the New Starts and Small Starts program is required. Thus, FTA is publishing this notice to withdraw the NPRM it issued on August 3, 2007.

FTA received numerous written comments in response to the NPRM. The majority of commenters opposed the NPRM, with overwhelmingly negative comment on a number of specific proposals. The following concerns emerged as the most widely held: A regulatory requirement that a project be rated medium on cost-effectiveness in order to obtain a funding recommendation; cost-effectiveness weighted fifty percent of the overall project justification rating; modification of the definition of ''fixed guideway'' to include High Occupancy Toll (HOT) lanes under certain conditions; consideration given to congestion reduction in evaluating projects; inclusion of weights for evaluation criteria in the regulatory text rather than in policy guidance; the level of simplification for the new Small Starts program; the combination of the evaluation measures for economic development and land use and the weight given to the combined measure; the prohibition on segmenting a New Starts project into several Small Starts projects; and the proposal for the Very Small Starts category of projects.

Today's issue of the **Federal Register** contains another withdrawal notice by which FTA is also withdrawing the NPRM it issued for the Contractor Performance Incentives for the Capital Investment Program on February 19, 2008 (73 FR 9075).

The Withdrawal

In consideration of the foregoing, the NPRM for FTA Docket No. FTA–2006–25737, as published in the **Federal Register** on August 3, 2007 (72 FR 43328) is hereby withdrawn.

Issued in Washington, DC, this 10th day of February, 2009.

Matthew J. Welbes,

Acting Deputy Administrator.

[FR Doc. E9–3208 Filed 2–13–09; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 612

[Docket No. FTA–2008–0005]

RIN 2132–AA96

Contractor Performance Incentives for the Capital Investment Program

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of proposed rulemaking; withdrawal.

SUMMARY: This action withdraws an FTA notice of proposed rulemaking (NPRM), Contractor Performance Incentives for the Capital Investment Program, published in the **Federal Register** on February 19, 2008 (73 FR 9075). FTA has determined that contractor performance incentives do not require a rulemaking to be effectuated. Rather, FTA can work with project sponsors on a case-by-case basis to provide incentives, and therefore, the rulemaking is withdrawn.

FOR FURTHER INFORMATION CONTACT: Sherry Riklin, Deputy Associate Administrator for Planning and Environment, 1200 New Jersey Avenue, SE., East Building, Washington, DC 20590, *phone:* (202) 366–4033, *fax:* (202) 493–2478 or e-mail, *Sherry.Riklin@dot.gov.* For legal questions, please contact Bonnie L. Graves, Attorney-Advisor, Legislation and Regulations Division, Office of Chief Counsel, same address, phone: (202) 366–0944, fax: (202) 366–3809, or e-mail, *Bonnie.Graves@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

On August 10, 2005, President Bush signed the Safe, Accountable, Flexible, and Efficient Transportation Equity Act—A Legacy for Users (SAFETEA–LU). Section 3011 of SAFETEA–LU made a number of changes to 49 U.S.C. 5309 (''Section 5309''), which authorizes the Federal Transit Administration's (FTA's) capital investment grant program. SAFETEA–LU emphasized the need to improve the accuracy of the estimates of ridership and costs used to support the selection of a capital investment project (''New Start'') as a locally preferred alternative (LPA) for Section 5309 funds. Section 5309(d)(4)(B)(i) and Section 5309(e)(4)(D) add ''the reliability of forecasting methods'' as a new evaluation consideration; Section 5309(g)(2)(C) codifies the ''before and after'' study requirement; and Section 5309(l)(2) requires FTA to produce an annual report on contractor performance in the development of ridership forecasts and cost estimates for New Starts projects.

FTA published a notice of proposed rulemaking (NPRM) for the Contractor Performance Incentives for the Capital Investment Program on February 19, 2008. FTA received written comments from three entities. All three entities expressed general support for the concept of providing incentives for accurate ridership and cost estimates, and also expressed concerns about the practicality of the proposal.

Upon reflection, FTA has determined that a separate rulemaking is not necessary in order to implement incentives to contractors for accurate ridership and cost estimates. FTA will work with project sponsors case-by-case to provide incentives to contractors for accurate ridership and cost estimates as appropriate, and may, at some point in the future, include incentives in a New Starts rulemaking, or issue a policy statement or guidance document to provide guidelines on incentives.

Today's issue of the **Federal Register** contains another withdrawal notice by which FTA is also withdrawing the NPRM it issued for the Major Capital Investment Program on August 3, 2007 (72 FR 43328).

The Withdrawal

In consideration of the foregoing, the NPRM for FTA Docket No. FTA–2008–0005, as published in the **Federal Register** on February 19, 2008 (73 FR 9075) is hereby withdrawn.

Issued in Washington, DC, this 10th day of February, 2009.

Matthew J. Welbes,

Acting Deputy Administrator.

[FR Doc. E9–3207 Filed 2–13–09; 8:45 am]

BILLING CODE 4910–57–P

Notices

Federal Register

Vol. 74, No. 30

Tuesday, February 17, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Advisory Committee on Voluntary Foreign Aid (ACVFA); Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA).

Date: Wednesday, March 11, 2009 (9 a.m. to 3 p.m., times may be adjusted).

Location: Jack Morton Auditorium, Media and Public Affairs Building, George Washington University, 805 21st Street, NW., Washington, DC 20052.

Please note that this is the anticipated agenda and is subject to change.

Keynote: The Administrator-designate, or if there is not yet a designated nominee, the Acting Administrator, Alonzo Fulgham, will present an update from the front office of USAID on the future direction of USAID under the new Administration.

Reflections from the Advisory Committee on Voluntary Foreign Aid: The ACVFA offers its perspective on three important issues which have received significant contributions: leadership, partnership, and a strengthened USAID development capacity for discussion.

The meeting is free and open to the public. Persons wishing to attend the meeting can register online at *http://www.usaid.gov/about_usaid/acvfa* or with Deborah Lewis at *dlewis@usaid.gov* or 202–712–0936.

Dated: February 2, 2009.

Deborah Lewis,

Office of the Chief Operating Officer, U.S. Agency for International Development.

[FR Doc. E9–3353 Filed 2–13–09; 8:45 am]

BILLING CODE 6116–02–P

AGENCY FOR INTERNATIONAL DEVELOPMENT

Board for International Food and Agricultural Development; One Hundred and Fifty-Sixth Meeting; Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of the one hundred and fifty-sixth meeting of the Board for International Food and Agricultural Development (BIFAD). The meeting will be held from 8:30 a.m. to 4:15 p.m. on February 24, 2009 at the National Press Club located at 529 14th St., NW., Washington, DC. The venue will be the 1st Amendment Room which is located on the 13th floor of the National Press Club. ''Higher Education: A Critical Partner in Global Agricultural Development'' continues to be the central theme of BIFAD's initiatives and the February meeting.

Dr. Robert Easter, Chairman of BIFAD, will preside over the proceedings. Dr. Easter is Dean of the College of Agriculture, Consumer and Environment Sciences at the University of Illinois.

The strengthening of USAID and university relations to achieve unified, and cooperative actions on international agricultural development, especially pertaining to food security, is central to the Agenda set for BIFAD's 156th meeting. The 156th meeting builds on the Board's recent initiatives, including the Conference of Deans (April 2008); the White Paper (presented to USAID's Administrator in October 2008); and the special dialogue on establishing a university ''Brain Trust'' (panel of university deans, De Moines meeting October 2008).

BIFAD's morning session will start with a presentation on ''Collaboration in Support of U.S. Foreign Assistance Priorities—2009 Outlook,'' delivered by Karen Turner, Director of USAID's Office of Development Partners (ODP). BIFAD was relocated to USAID's Office of Development Partners in October 2008. This presentation will be followed by the technical reports of BIFAD's technical subcommittee, the Strategic Partnership for Agricultural Research and Education (SPARE) led by Dr. Sandra Russo, Chairperson, of SPARE and will include SPARE's actions on the SPARE Charter, CRSP management, SPARE directions, and the role of SPARE in support of BIFAD's initiatives.

Following the SPARE presentation the Board will receive an update on legislative actions related to Agriculture and Higher Education. Congressional staff (TBD) will provide comment on directions and funding implications.

Of special interest to program implementers will be BIFAD's report on a three-member team field visit to Kenya. The October 2008 visit, lead by BIFAD Chairman Robert Easter, reviewed selected USAID programs being implemented by USAID/Kenya (country mission) and USAID/East Africa (regional mission). One aspect of the Board's Kenya visit was to gain insights on how the Board and the university community can assist USAID field missions.

Highlighting the morning session will be an interagency panel discussion, ''US Government Approaches to Agriculture and Food Security in Africa.'' David Atwood, Director of the Office of Sustainable Development in USAID's Africa Bureau, assembled the panel and will provide USAID's Africa Bureau perspectives and moderate the discussion. Panel members include Pat Sheikh, Acting Deputy Under Secretary, Foreign Agricultural Service, U.S. Department of Agriculture; Kristen Penn, Senior Agricultural Director, Millennium Challenge Corporation (MCC); Howard Anderson, Acting Director, Overseas Programming and Training Support, U.S. Peace Corps; and Susan Bradley, Director of Program Planning and Management, Democracy Conflict and Humanitarian Assistance Bureau (DCHA), USAID. The panel's discussion will provide BIFAD with current perspectives on development conditions and food security implications in Africa and serve to expand the dialogue on reaching foreign assistance objectives through cooperation among USG and other partners.

Following an executive luncheon (closed to the public) the Board will continue discussion and consideration of several initiatives to enhance university collaboration with USAID. The Board will discuss recommendations advanced in its White Paper, including strategic and long-term perspectives on international agriculture. Discussion objectives include identifying several priority

areas for joint university and USAID collaboration and timely implementation to assist USAID's leadership. Building on the program groundwork established by the Board in 2007–08, BIFAD's mid-afternoon session includes deliberations on ''Collaborating with USAID to Establish the University Brain Trust for International Agricultural Development'' and plans to sponsor the Conference of Deans II. Both initiatives are mechanisms to mobilize university capacities in collaboration with international agri-business and with BIFAD's leadership, to advise and assist USAID.

Ending a very full agenda will be comments on ''The Way Forward: Toward a USAID/BIFAD Partnership.'' These will be delivered by Carol Grigsby, Deputy Director, Office of Development Partners, USAID.

The Board meeting is open to the public. The Board welcomes open dialogue to promote greater focus on critical issues facing USAID, the role of universities in development, and applications of U.S. scientific, technical and institutional capabilities to international agriculture.

Note on Public Comments: Due to time constraints public comments to the Board will limited to two (2) minutes to accommodate as many as possible. The comments must be submitted ahead of the meeting and they must be in writing.

Those wishing to attend the meeting or obtain additional information about BIFAD should contact Dr. Ronald S. Senykoff, Executive Director and Designated Federal Officer for BIFAD. Write him in care of the U.S. Agency for International Development, Ronald Reagan Building, Office of Development Partners, 1300 Pennsylvania Avenue, NW., Room 2.11–085, Washington, DC 20523–2110 or telephone him at (202) 712–0218 or fax (202) 216–3010.

Ronald S. Senykoff,

Executive Director and USAID Designated Federal Officer for BIFAD, Office of Agriculture and Food Security, Bureau for Economic Growth, Agriculture & Trade, U.S. Agency for International Development.

[FR Doc. E9–3256 Filed 2–13–09; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF AGRICULTURE

Forest Service

Davy Crockett National Forest

February 5, 2009.

AGENCY: Forest Service, USDA.

ACTION: Notice of public meeting, Davy Crockett National Forest Resource Advisory Committee.

SUMMARY: In accordance with the Secure Rural Schools and Community Self Determination Act of 2000 (Pub. L. 106–393), [as reauthorized as part of Public Law 110–343] and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of Agriculture, Forest Service, Davy Crockett National Forest Resource Advisory Committee (RAC) meeting will meet as indicated below.

DATES: The Davy Crockett National Forest RAC meeting will be held on March 5, 2009.

ADDRESSES: The Davy Crockett National Forest RAC meeting will be held at the Davy Crockett Ranger Station located on State Highway 7, approximately one-quarter mile West of FM 227 in Houston County, Texas. The meeting will begin at 6 p.m. and adjourn at approximately 8 p.m. A public comment period will begin at 7:45 p.m.

FOR FURTHER INFORMATION CONTACT: Brian Townsend, Designated Federal Officer, Davy Crockett National Forest, 18551 State Hwy. 7 E., Kennard, TX 75847: *Telephone:* 936–655–2299 ext. 240 or *e-mail at: btownsend@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The Davy Crockett National Forest RAC proposes projects and funding to the Secretary of Agriculture under Section 203 of the Secure Rural Schools and Community Self Determination Act of 2000, (as reauthorized as part of Public Law 110–343). The purpose of the March 5, 2009 meeting is to update the members on the following: Project status, legislation, and the Groveton Stewardship Project. These meetings are open to the public. The public may present written comments to the RAC. Each formal RAC meeting will also have time, as identified above, persons wishing to comment and time available, the time for individual oral comments may be limited.

Brian Townsend,

Designated Federal Officer, Davy Crockett National Forest RAC.

[FR Doc. E9–3078 Filed 2–13–09; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Rogue/Umpqua Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Action of Meeting.

SUMMARY: The Rogue/Umpqua Resource Advisory Committee (RAC) will meet on Wednesday and Thursday, March 11 and 12, in Medford, Oregon, at the BLM/ForestService Interagency Office located at 3040 Biddle Road. On March 11, the meeting will begin at 9:30 a.m. and conclude at 5:15 p.m. On March 12, the meeting will begin at 8 a.m. and conclude at 4:30 p.m. Agenda items on March 11 include (1) Selection of RAC chairperson, (2) 30-minute public forum at 10 a.m., and (3) review and vote on proposed projects for Douglas County at 10:30 a.m. The agenda for March 12 includes (1) Review and vote on Jackson County projects at 8:15 a.m., (2) review and vote on Lane County projects at 10:45 a.m., (3) 30-minute public comment period at 1:30 p.m., (4) review and vote on Kiamath County projects at 2 p.m., and (5) discussion of how RAC members will monitor Title II projects. Written public comments may be submitted prior to the meeting by sending them to Designated Federal Official Cliff Dils at the address given below before March 10th 2009.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal Official Cliff Dils; Umpqua National Forest; 2900NW., Stewart Parkway, Roseburg, Oregon 97470; (541) 957–3203.

Dated: February 9, 2009.

Cliff J. Dils,

Forest Supervisor, Umpqua National Forest.

[FR Doc. E9–3128 Filed 2–13–09; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of New Fee Sites; Federal Lands Recreation Enhancement Act, (Title VIII, Pub. L. 108–447)

AGENCY: Northern Region, USDA Forest Service.

ACTION: Notice of New Fee Sites.

SUMMARY: Pending public comments and feedback received through the BLMResource Advisory Council (BLM RAC) review and recommendation process, the following National Forests in the Northern Region propose to begin charging new fees at the following recreation sites: The Clearwater National Forest will begin charging new fees for two overnight group camping sites at Aquarius Campground ($15/night). The Idaho Panhandle National Forest will begin charging new fees for overnight camping at Conrad Crossing Campground ($8/night) with an extra

vehicle fee of $2/night; Fly Flat Campground ($8/night) with an extra vehicle fee of $2/night; Spruce Tree Campground ($8/night) with an extra vehicle fee of $2/night; Line Creek Stock Camp Campground ($8/night) with an extra vehicle fee of $2/night; and Big Creek Campground ($8/night) with an extra vehicle fee of $2/night. The Lewis and Clark National Forest will begin charging new fees for overnight camping at Indian Hill Campground ($5/night); Hay Canyon Campground ($5/night); andVandeReit Memorial Pilots Campground ($10/night). The Lolo National Forest will begin charging new fees for overnight camping at Fishtrap Campground ($10/night).

Rentals of other cabins and lookouts throughout the Northern Region have shown that the public appreciates and enjoys the availability of historic rental cabins and lookouts as well as campgrounds and group camping sites. Funds from the campgrounds will be used for the continued operation and maintenance of recreation sites.

DATES: Pending additional public comment and BLM Resource Advisory Committee review and recommendation regarding charging new fees at these proposed sites, the campgrounds could become available as early as August 12, 2009. Additionally, fee pricing may be adjusted per the proposed Region One Regional Recreation Fee schedule, per public and BLM RAC comments on the framework and fee pricing schedule, which will also go through **Federal Register** notice, regional and local public comment, and BLM RAC review and recommendation.

ADDRESSES: Comments regarding these new proposed fee sites may be sent directly to the respective Forest: Forest Supervisor, Clearwater National Forest, 12730Highway 12, Orofino, ID 83544; Forest Supervisor, Idaho Panhandle National Forest, 3815 Schreiber Way, Coeur d'Alene, ID 83815; Forest Supervisor, Lewis and Clark National Forest, 1101 15th Street North, Great Falls, MT 59403; Forest Supervisor, Lolo National Forest, Building 24—Fort Missoula, Missoula, MT 59804.

FOR FURTHER INFORMATION CONTACT: Joni Packard, Northern Region Recreation Fee Program Coordinator, 406–329–3586.

SUPPLEMENTARY INFORMATION: The Federal Recreation Lands Enhancement Act (Title VII, Pub. L. 108–447) directed the Secretary of Agriculture to publish a six month advance notice in the **Federal Register** whenever new recreation fee areas are established. The intent of this notice is to give the public an opportunity to comment if they have concerns or questions about new fees. The Northern Region currently offers over 150 other cabin rentals, including guard stations and fire lookouts, 208 fee campgrounds and 268 non-fee (free) campgrounds. Many sites are often fully booked throughout their rental season. Local public comments have shown that people desire having these sorts of recreation experiences on these National Forests and Grasslands. The fees proposed are based on amenities offered and local comparable markets and are both reasonable and acceptable for these sorts of unique recreation experience.

People wanting to rent these campground sites may do so on a first-come, first-served basis, and for locations with a portion of reservable sites, through the National Recreation Reservation Service (NRRS), at *www.recreation.gov* or by calling 1–877–444–6777. The National RecreationReservation Service charges a $9 fee for reservations made on-line and a $10 fee for reservations made by phone.

Dated: January 23, 2009.

Thomas Tidwell,

Regional Forester, Northern Region.

[FR Doc. E9–3127 Filed 2–13–09; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

[Docket 5–2009]

Foreign–Trade Zone 49 -- Newark, New Jersey Area, Application for Expansion

An application has been submitted to the Foreign–Trade Zones (FTZ) Board (the Board) by the Port Authority of New York and New Jersey, grantee of FTZ 49, requesting authority to expand its zone to include an additional site located in Edison, New Jersey, within the Newark/New York 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 February 6, 2009.

FTZ 49 was approved on April 6, 1979 (Board Order 146, 44 FR 22502, 4/16/79) and expanded as follows: on May 26, 1983 (Board Order 211, 48 FR 24958, 6/3/83); on October 23, 1987 (Board Order 365, 52 FR 41599, 10/29/87); on April 19, 1990 (Board Order 470, 55 FR 17478, 4/25/90); on December 15, 1999 (Board Order 1067, 64 FR 72642, 12/28/99); on April 14, 2006 (Board Order 1446, 71 FR 23895, 4/25/06); and, on February 28, 2007 (Board Order 1504, 72 FR 10642, 3/9/07).

The general–purpose zone project currently consists of ten sites (3,588 acres total): *Site 1* (2,075 acres) -- Port Newark/Elizabeth Port Authority Marine Terminal and three parcels located at 888 Doremus Avenue in Newark, at 50 Division Street in Elizabeth and at 251–259 Kapowski Road in Elizabeth; *Site 2* (64 acres) -- Global Terminal and Container Services and adjacent Jersey Distribution Services facility in Jersey City and Bayonne; *Site 3* (124 acres) -- Port Authority Industrial Park, adjacent to the Port Newark/Elizabeth Port Authority Marine terminal; *Site 4* (198 acres) -- Port Authority Auto Marine Terminal and adjacent Greenville Industrial Park in Bayonne and Jersey City; *Site 5* (40 acres) -- the jet fuel storage and distribution system at Newark International Airport in Newark and Elizabeth; *Site 6* (407 acres) -- within the 441–acre South Kearny Industrial Park located at 100 Central Avenue in Kearny; *Site 7* (114 acres) -- I–Port 12 industrial park located at exit 12 of the New Jersey Turnpike in Carteret (sunset 3/31/2014); *Site 8* (176 acres) -- within the 183–acre I–Port 440 industrial park located east of State Street and north of the Outer Bridge Crossing in Perth Amboy (sunset 3/31/2014); *Site 9* (317 acres) -- Port Reading Business Park located on Port Reading Avenue in Woodbridge (sunset 3/31/2014); and, *Site 10* (73 acres) -- Port Elizabeth Business Park located at 10 North Avenue East in Elizabeth (sunset 3/31/2014).

The applicant is now requesting authority to expand the general–purpose zone to include a site at the Heller Industrial Park located at 205 Mill Road in Edison (Proposed Site 11 - 401.753 acres). The park consists of 33 existing buildings (7.8 million square feet of space) with 69 companies currently occupying the park. The park can accommodate various activities, including warehousing, distribution, light manufacturing and third–party logistics operations. No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case–by-case basis.

In accordance with the Board's regulations, Camille Evans of the FTZ Staff is designated examiner to investigate the application and report 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 listed below. The closing period

for their receipt is April 20, 2009. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15–day period (to May 4, 2009).

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 website, which is accessible via www.trade.gov/ftz. For further information, contact Camille Evans at Camille__Evans@ita.doc.gov or (202) 482–2350.

Dated: February 6, 2009.

Andrew McGilvray,

Executive Secretary.

[FR Doc. E9–3173 Filed 2–13–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–802]

Gray Portland Cement and Clinker from Mexico: Initiation of Changed–Circumstances Review, Preliminary Results of Review, Intent to Revoke Antidumping Duty Order, and Intent to Terminate Five-year (Sunset) Review of Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is initiating a changed–circumstances review of the antidumping duty order on gray portland cement and clinker from Mexico. As a result of its preliminary analysis, the Department intends to revoke the order and to terminate the five-year (sunset) review of the order.

Interested parties are invited to comment on the preliminary results, the intent to revoke the order, and the intent to terminate the five-year (sunset) review of the antidumping duty order.

EFFECTIVE DATE: February 17, 2009.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–3477 and (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 6, 2006, the Office of the United States Trade Representative, Secretaria de Economia of the United Mexican States, and the Department entered into an Agreement on Trade in Cement (Agreement). See *Gray Portland Cement and Clinker from Mexico: Agreement Between the Office of the United States Trade Representative, The United States Department of Commerce and Secretaria de Economia of Mexico on Trade in Cement*, 71 FR 13082 (March 14, 2006). Section XI.B of the Agreement states that, provided it ''has not been terminated before March 31, 2009,'' the Department ''shall revoke'' the cement order ''for all Mexican Cement Producers that have not exported any Mexican Cement to the United States since August 30, 1990, or that have not exported substantially more than the Export Limits'' allocated by the Mexican government from April 1, 2008, through March 31, 2009. Pursuant to the terms of the Agreement concerning the revocation of the order, the Department is initiating a changed–circumstances review pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.221(b)(1).

Preliminary Results of Review

The Agreement states that revocation of the order ''shall be based on'' irrevocable letters which were submitted in accordance with Section II.A.13 by the following domestic producers of the like merchandise: the Southern Tier Cement Committee (STCC) and its members, Capitol Aggregates, Ltd. (Capitol Aggregates), and Holcim (U.S.) Inc. (Holcim). STCC and its members, Capitol Aggregates, and Holcim state in those letters that they have ''no interest'' in maintaining the order after the expiration of the Agreement and that they will not ''file a petition requesting remedies with respect to Mexican cement under the Act, the U.S. countervailing duty law, Sections 201–204 of the Trade Act of 1974, as amended, or Sections 301–305 of the Trade Act of 1974, as amended, {...} for a period of nine (9) months after this Agreement expires and will oppose any such petition filed by any other person or enterprise during that period.'' See Section II.A.13 and Appendix 14 of the Agreement.

The Agreement not only required the settlement of litigation of numerous challenges before North American Free Trade Agreement (NAFTA) Panels but also the suspension of a NAFTA challenge pertaining to the 1999 sunset review of the order, the withdrawal of a challenge before the World Trade Organization, the suspension of the 2005 sunset review of this order, the creation and enforcement of an export–license program by the government of Mexico, the implementation of an import–license program by the Department, and the liquidation of certain entries of gray portland cement and clinker from Mexico by U.S. Customs and Border Protection (CBP) in accordance with the terms of the Agreement. We preliminarily determine that all of the terms of the Agreement have been satisfied to date.

Intent to Revoke Order

Because the Department preliminarily determines that the terms of the Agreement and, therefore, the terms of the ''no interest'' letters from producers accounting for substantially all of the production of the domestic like product have been met, the Department intends to revoke the order in its entirety, effective April 1, 2009.

Intent to Terminate Sunset Review

In accordance with Section II.A.11 of the Agreement, the Department suspended its conduct of the second sunset review initiated on October 3, 2005. See *Initiation of Five-year (''Sunset'') Reviews*, 70 FR 57560 (October 3, 2005).

Because the Department preliminarily determines that the terms of the Agreement have been fulfilled, the Department intends to terminate the suspended sunset review on March 31, 2009, absent any difficulty in completing the terms of the Agreement before this date.

Suspension of Liquidation

In accordance with Section XI.B of the Agreement, upon revocation of the order we will instruct CBP to discontinue the suspension of liquidation and to cease the collection of cash deposits on entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after April 1, 2009.

Public Comment

Interested parties are invited to comment on the preliminary results of review, the intent to revoke the order, and the intent to terminate the sunset review. Written comments may be submitted no later than 14 calendar days after the date of publication of this notice. Rebuttals to written comments, limited to issues raised in such comments, may be filed no later than 21 calendar days after the date of publication of this notice.

This notice is published in accordance with sections 751(b)(1) and

777(i) of the Act and 19 CFR 351.221(b)(1).

Dated: February 11, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

[FR Doc. E9–3403 Filed 2–13–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–501]

Certain Welded Carbon Steel Pipe and Tube from Turkey: Notice of Rescission, in Part, of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 17, 2009.

FOR FURTHER INFORMATION CONTACT: Dennis McClure or Chris Hargett, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5973, or (202) 482–4161, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 28, 2004, in accordance with 19 CFR 351.213(b), domestic interested party Allied Tube and Conduit Corporation requested a review of the Borusan Group and Toscelik Profil ve Sac Endustrisi A.S. (''Toscelik''), producers of certain welded carbon steel pipe and tube (''welded pipe and tube'') from Turkey. On July 1, 2008, the Department of Commerce (''the Department'') published a notice of initiation of administrative review of the antidumping duty order on welded pipe and tube from Turkey, for the period May 1, 2007, through April 30, 2008. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocations in Part*, 73 FR 37409 (July 1, 2008). On July 8, 2008, Toscelik informed the Department that it had no sales, shipments or entries of subject merchandise in or to the United States, during the period of review. On October 10, 2008, the Department published a notice of intent to rescind the administrative review in part. *See Welded Carbon Steel Pipe and Tube from Turkey: Notice of Intent to Rescind Antidumping Duty Administrative Review, In Part*, 73 FR 60240 (October 10, 2008) (''Notice of Intent to Rescind''). The Department invited comment on the Department's intent to rescind the administrative review, with respect to Toscelik, within 30 days of the publication of the *Notice of Intent to Rescind*.

Scope of the Order

The products covered by this order include circular welded non–alloy steel pipes and tubes, of circular cross-section, not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, or galvanized, painted), or end finish (plain end, beveled end, threaded and coupled). Those pipes and tubes are generally known as standard pipe, though they may also be called structural or mechanical tubing in certain applications. Standard pipes and tubes are intended for the low pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioner units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load–bearing and mechanical applications, such as for fence tubing, and for protection of electrical wiring, such as conduit shells.

The scope is not limited to standard pipe and fence tubing, or those types of mechanical and structural pipe that are used in standard pipe applications. All carbon steel pipes and tubes within the physical description outlined above are included in the scope of this order, except for line pipe, oil country tubular goods, boiler tubing, cold–drawn or cold–rolled mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished rigid conduit.

Imports of these products are currently classifiable under the following Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Rescission of Administrative Review

On October 10, 2008, the Department published in the **Federal Register** its intent to rescind the administrative review in part. *See Notice of Intent to Rescind*. In that notice we stated that since our examination of the entry data from U.S. Customs and Border Protection for Toscelik confirmed its assertion that it did not have shipments to the United States during the POR, we intended to rescind this review with respect to Toscelik. Furthermore, we received no comments. Consequently, the Department continues to treat Toscelik as a non–shipper for purposes of this review.

Pursuant to 19 CFR 351.213(d)(3), the Department may rescind an administrative review with respect to a particular exporter or producer if the Department concludes that during the POR there were no entries, exports, or sales of the subject merchandise. Because there is no record evidence of entries, exports or sales of the subject merchandise by Toscelik, we are rescinding this review in part.

As a result of the rescission of this administrative review with respect to Toscelik, only one respondent, the Borusan Group, remains in this review.

We are issuing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930 as amended, and section 351.213(d)(4) of the Department's regulations.

Dated: February 9, 2009.

John M. Andersen,

Acting Deputy Assistant Secretaryfor Antidumping and Countervailing Duty Operations.

[FR Doc. E9–3178 Filed 2–13–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States. Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before March 9, 2009. Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. at the U.S. Department of Commerce in Room 3720.

Docket Number: 08–041. Applicant: University of Colorado, P.O. Box 173364, Campus Box 119, Denver, CO 80217. Instrument: Vitrification Robot. Manufacturer: FEI Company, The Netherlands. Intended Use: The instrument will be used for the

preparation of vitrified macromolecular and cellular specimens that will be subsequently examined in an electron microscope under strict cryo–conditions. Application accepted by Commissioner of Customs: August 11, 2008.

Docket Number: 08–052. Applicant: University of Washington, Applied Physics Laboratory, 1013 NE 40th Street, Seattle, WA 98105–6698. Instrument: CTD Chain III. Manufacturer: ADM Electronik, Germany. Intended Use: The instrument will be towed from a large research vessel to study physical phenomena and processes that occur primarily in the upper 500m of the ocean, including internal waves, internal tides, meso–scale eddies, and buoyancy compensated water masses. Application accepted by Commissioner of Customs: September 30, 2008.

Docket Number: 08–056. Applicant: Argonne National Laboratory, 9700 S. Cass Avenue, Lemont, IL 60439. Instrument: Isobar separator system. Manufacturer: Bruker Biospin S.A., France. Intended Use: The instrument will be used to develop new capability to deliver radioactive beams for nuclear physics research. Application accepted by Commissioner of Customs: October 9, 2008.

Dated: February 12, 2009.

Chris Cassel,

Acting Director,IA Subsidies Enforcement Office.

[FR Doc. E9–3401 Filed 2–13–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–851]

Dynamic Random Access Memory Semiconductors from the Republic of Korea: Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On August 13, 2008, the Department of Commerce published in the **Federal Register** its preliminary results of administrative review of the countervailing duty order on dynamic random access memory semiconductors from the Republic of Korea for the period January 1, 2006, through December 31, 2006.

Following the preliminary results, we provided interested parties with an opportunity to comment on the preliminary results. Our analysis of the comments submitted and information received after the preliminary results did not lead to any changes in the net subsidy rate. Therefore, the final results do not differ from the preliminary results. The final net subsidy rate for Hynix Semiconductor Inc. is listed below in the section entitled ''Final Results of Review.''

EFFECTIVE DATE: February 17, 2009.

FOR FURTHER INFORMATION CONTACT: David Neubacher or Shane Subler, AD/CVD Operations, Office 1, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5823 or (202) 482–0189, respectively.

SUPPLEMENTARY INFORMATION:

Background

The following events have occurred since the publication of the preliminary results of this review. *See Dynamic Random Access Memory Semiconductors from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review*, 73 FR 47131 (August 13, 2008) (''*Preliminary Results*'').

On September 23, 2008, we received a case brief from the petitioner, Micron Technology, Inc. (''Micron''), and we received a rebuttal brief from Hynix Semiconductor Inc. (''Hynix'') on September 29, 2008.

On November 24, 2008, we issued a supplemental questionnaire to Hynix and received a response on December 2, 2008. Following Hynix's December 2, 2008, supplemental questionnaire response, we received a supplemental case brief from Micron on December 17, 2008 and a supplemental rebuttal brief from Hynix on December 22, 2008.

On November 28, 2008, we extended the time limit for the final results of this administrative review by 60 days (to February 9, 2008), pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''). *See Dynamic Random Access Memory Semiconductors From the Republic of Korea: Extension of Time Limit for Final Results of the Countervailing Duty Administrative Review*, 73 FR 72449 (November 28, 2008).

Scope of the Order

The products covered by the order are dynamic random access memory semiconductors (''DRAMS'') from the Republic of Korea (''ROK''), whether assembled or unassembled. Assembled DRAMS include all package types. Unassembled DRAMS include processed wafers, uncut die, and cut die. Processed wafers fabricated in the ROK, but assembled into finished semiconductors outside the ROK are also included in the scope. Processed wafers fabricated outside the ROK and assembled into finished semiconductors in the ROK are not included in the scope.

The scope of the order additionally includes memory modules containing DRAMS from the ROK. A memory module is a collection of DRAMS, the sole function of which is memory. Memory modules include single in–line processing modules, single in–line memory modules, dual in–line memory modules, small outline dual in–line memory modules, Rambus in–line memory modules, and memory cards or other collections of DRAMS, whether unmounted or mounted on a circuit board. Modules that contain other parts that are needed to support the function of memory are covered. Only those modules that contain additional items which alter the function of the module to something other than memory, such as video graphics adapter boards and cards, are not included in the scope. The scope also covers future DRAMS module types.

The scope of the order additionally includes, but is not limited to, video random access memory and synchronous graphics random access memory, as well as various types of DRAMS, including fast page–mode, extended data–out, burst extended data–out, synchronous dynamic RAM, Rambus DRAM, and Double Data Rate DRAM. The scope also includes any future density, packaging, or assembling of DRAMS. Also included in the scope of this order are removable memory modules placed on motherboards, with or without a central processing unit, unless the importer of the motherboards certifies with U.S. customs and Border Protection (''CBP'') that neither it, nor a party related to it or under contract to it, will remove the modules from the motherboards after importation. The scope of the order does not include DRAMS or memory modules that are re–imported for repair or replacement.

The DRAMS subject to the order are currently classifiable under subheadings 8542.21.8005, 8542.21.8020 through 8542.21.8030, and 8542.32.0001 through 8542.32.0023 of the Harmonized Tariff Schedule of the United States (''HTSUS''). The memory modules containing DRAMS from the ROK, described above, are currently classifiable under subheadings 8473.30.1040, 8473.30.1080, 8473.30.1140, and 8473.30.1180 of the HTSUS. Removable memory modules placed on motherboards are classifiable under subheadings 8443.99.2500,

8443.99.2550, 8471.50.0085, 8471.50.0150, 8517.30.5000, 8517.50.1000, 8517.50.5000, 8517.50.9000, 8517.61.0000, 8517.62.0010, 8517.62.0050, 8517.69.0000, 8517.70.0000, 8517.90.3400, 8517.90.3600, 8517.90.3800, 8517.90.4400, 8542.21.8005, 8542.21.8020, 8542.21.8021, 8542.21.8022, 8542.21.8023, 8542.21.8024, 8542.21.8025, 8542.21.8026, 8542.21.8027, 8542.21.8028, 8542.21.8029, 8542.21.8030, 8542.31.0000, 8542.33.0000, 8542.39.0000, 8543.89.9300, and 8543.89.9600 of the HTSUS. However, the product description, and not the HTSUS classification, is dispositive of whether merchandise imported into the United States falls within the scope.

Scope Rulings

On December 29, 2004, the Department of Commerce (''Department'') received a request from Cisco Systems, Inc. (''Cisco''), to determine whether removable memory modules placed on motherboards that are imported for repair or refurbishment are within the scope of the *CVD Order*. *See Notice of Countervailing Duty Order: Dynamic Random Access Memory Semiconductors from the Republic of Korea*, 68 FR 47546 (August 11, 2003) (''*CVD Order*''). The Department initiated a scope inquiry pursuant to 19 CFR 351.225(e) on February 4, 2005. On January 12, 2006, the Department issued a final scope ruling, finding that removable memory modules placed on motherboards that are imported for repair or refurbishment are not within the scope of the *CVD Order* provided that the importer certifies that it will destroy any memory modules that are removed for repair or refurbishment. *See* Memorandum from Stephen J. Claeys to David M. Spooner, regarding Final Scope Ruling, Countervailing Duty Order on DRAMs from the Republic of Korea (January 12, 2006).

Period of Review

The period for which we are measuring subsidies, *i.e.*, the period of review (''POR''), is January 1, 2006, through December 31, 2006.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the February 9, 2009, *Issues and Decision Memorandum for the Final Results in the Fourth Administrative Review of the Countervailing Duty Order on Dynamic Random Access Memory Semiconductors from the Republic of Korea* (''*Decision Memorandum*'') from John M. Andersen, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Import Administration, which is hereby adopted by this notice. Attached to this notice as an appendix is a list of the issues which parties have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Department's Central Records Unit, Room 1117 of the main Department building. In addition, a complete version of the public *Decision Memorandum* can be accessed directly on the Internet at *http://www.ia.ita.doc.gov/frn*. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Final Results of Review

In accordance with 19 CFR 351.221(b)(5), we calculated an individual subsidy rate for the producer/exporter, Hynix. For the period January 1, 2006, through December 31, 2006, we find that the *ad valorem* net subsidy rate for Hynix is 4.91 percent.

Assessment Rates

Fifteen days after the date of publication of these final results of this review, the Department will instruct CBP to liquidate shipments of DRAMS by Hynix entered or withdrawn from warehouse, for consumption from January 1, 2006, through December 31, 2006, at 4.91 percent *ad valorem* of the F.O.B. invoice price.

Cash Deposits

On October 3, 2008, the Department published a **Federal Register** notice that, *inter alia*, revoked this order, effective August 11, 2008. *See Dynamic Random Access Memory Semiconductors From the Republic of Korea: Final Results of Sunset Review and Revocation of Order*, 73 FR 57594 (October 3, 2008). As a result, CBP is no longer suspending liquidation for entries of subject merchandise occurring after the revocation. Therefore, there is no need to issue new cash deposit instructions pursuant to the final results of this administrative review.

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are issued and published in accordance with section 751(a)(1) of the Act.

Dated: February 9, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretaryfor Import Administration.

Appendix I

Comments in the Issues and Decision Memorandum

Comment 1: Timing of the Benefit on a Previously Countervailed Debt–to-Equity Swap (''DES'')
Comment 2: Allegation that Hynix is Circumventing the Order

[FR Doc. E9–3288 Filed 2–13–09; 8:45 am]

BILLING CODE 3510–DS–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Determination under the Textile and Apparel Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR Agreement)

February 10, 2009.

AGENCY: The Committee for the Implementation of Textile Agreements.

ACTION: Determination to add a product in unrestricted quantities to Annex 3.25 of the CAFTA-DR Agreement.

EFFECTIVE DATE: February 17, 2009.

SUMMARY: The Committee for the Implementation of Textile Agreements (CITA) has determined that certain woven modal-polyester fabric, as specified below, is not available in commercial quantities in a timely manner in the CAFTA-DR countries. The product will be added to the list in Annex 3.25 of the CAFTA-DR Agreement in unrestricted quantities.

FOR FURTHER INFORMATION CONTACT: Maria Dybczak, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3651.

FOR FURTHER INFORMATION ON-LINE: http://web.ita.doc.gov/tacgi/CaftaReqTrack.nsf. Reference number: 102.2009.01.02.Fabric.SoriniSamet forBWA.

SUPPLEMENTARY INFORMATION:

Authority: Section 203(o)(4) of the Dominican Republic-Central America-United

States Free Trade Agreement Implementation Act (CAFTA-DR Act); the Statement of Administrative Action (SAA), accompanying the CAFTA-DR Act; Presidential Proclamations 7987 (February 28, 2006) and 7996 (March 31, 2006).

BACKGROUND:

The CAFTA-DR Agreement provides a list in Annex 3.25 for fabrics, yarns, and fibers that the Parties to the CAFTA-DR Agreement have determined are not available in commercial quantities in a timely manner in the territory of any Party. The CAFTA-DR Agreement provides that this list may be modified pursuant to Article 3.25(4)-(5), when the President of the United States determines that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the territory of any Party. See Annex 3.25, Note; see also section 203(o)(4)(C) of the CAFTA-DR Act.

The CAFTA-DR Act requires the President to establish procedures governing the submission of a request and providing opportunity for interested entities to submit comments and supporting evidence before a commercial availability determination is made. In Presidential Proclamations 7987 and 7996, the President delegated to CITA the authority under section 203(o)(4) of CAFTA-DR Act for modifying the Annex 3.25 list. On September 15, 2008, CITA published modified procedures it would follow in considering requests to modify the Annex 3.25 list (Modifications to Procedures for Considering Requests Under the Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement, 73 FR 53200, September 15, 2008) (''Procedures'').

On January 2, 2009, the Chairman of CITA received a request for a commercial availability determination (''Request'') under the CAFTA-DR from Sorini, Samet & Associates LLC, on behalf of BWA, for certain woven modal-polyester fabric. On January 6, 2009, in accordance with CITA's Procedures, CITA notified interested parties of the Request and posted the Request on the dedicated website for CAFTA-DR Commercial Availability proceedings. In its notification, CITA advised that any Response with an Offer to Supply (''Response'') must be submitted by January 16, 2009, and any Rebuttal be submitted by January 26, 2009. No interested entity submitted a Response advising CITA of its objection to the Request and its ability to supply the subject product.

In accordance with section 203(o)(4)(C) of the CAFTA-DR Act, and CITA's Procedures, as no interested entity submitted a Response objecting to the Request and demonstrating its ability to supply the subject product, CITA has determined to add the specified fabric to the list in Annex 3.25 of the CAFTA-DR Agreement.

The subject product has been added to the list in Annex 3.25 of the CAFTA-DR Agreement in unrestricted quantities. A revised list has been posted on the dedicated website for CAFTA-DR Commercial Availability proceedings.

Specifications: Certain Woven Modal-Polyester Fabric

HTS: 5516.12; 5516.13; 5516.22; 5516.23

Fiber Content: 52% - 95% spun modal rayon; 5% - 48% filament polyester

Yarn Size (metric):
Spun Modal Rayon - 44/1 to 88/1
Filament Polyester - 59 to 92
Thread Count (metric): 31 to 53 warp ends per cm; 27 to 36 filling picks per cm
Weave: Plain
Weight: 100 - 300 grams per sq. meter
Width: 137 to 153 cm
Coloration: Piece dyed or yarns of different colors
Finishing Process: Wicked, UV blocker, peached, sanded wash, stain-resistant, and teflon finish

NOTE: In the finishing process, in the event that the polyester filament content breaks and turns into fibers, the finished fabric's specifications may fall under HTS classifications 5516.92 and 5516.93, for woven fabrics of artificial staple fiber.

Janet E. Heinzen,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. E9–3292 Filed 2–13–09; 8:45 am]

BILLING CODE 3510–DS

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Public Meetings To Discuss Project 25 Compliance Assessment Program: Creating Software Test Tool Validation Process for Participating Laboratories

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology Office of Law Enforcement Standards (OLES), in cooperation with the Department of Homeland Security's Office of Interoperability and Compatibility (DHS/OIC) and representatives of the public safety community, will hold public meetings on March 11, 2009 and March 25, 2009. The first meeting will be held via WebEx over the Internet, and the second at the Institute for Telecommunication Sciences (ITS) in Boulder, CO. The purpose of these meetings is to bring Project 25 Compliance Assessment Program stakeholders together to discuss what the process will be to assess software based test tools for the Project 25 Compliance Assessment Program.

DATES: The first meeting will be held on March 11, 2009, from 1 p.m. until 5 p.m. MT. The second meeting will be held on March 25, 2009, from 9 p.m. until 5 p.m. MT. Please note registration and admittance instructions and other additional information under the **SUPPLEMENTARY INFORMATION** section of this notice.

ADDRESSES: The first meeting will be held via WebEx over the Internet. The second meeting will be held in the Radio Building (Building 1), Room 1107, 325 Broadway, Boulder, CO 80305. The web meeting and teleconference bridge information will be e-mailed out prior to each event. Please note registration and admittance instructions and other additional information under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Dereck Orr, (303) 497–5400, e-mail: *dereck.orr@nist.gov*. The mailing address is 325 Broadway, Mail Stop ITS.P, Boulder, CO, 80305. Information regarding OLES can be viewed at *http://www.eeel.nist.gov/oles/*. Information regarding DHS/OIC can be viewed at *http://www.safecomprogram.gov*. Information regarding ITS can be viewed at *http://www.its.bldrdoc.gov*.

SUPPLEMENTARY INFORMATION: In partnership with the U.S. Department of Homeland Security (DHS), Science and Technology Directorate (S&T), Command, Control and Interoperability Division (CCI), Office of Interoperability and Compatibility (OIC), the National Institute of Standards and Technology (NIST) Office of Law Enforcement Standards (OLES) is developing a process to assess software based test tools used by laboratories seeking DHS recognition for their competence to perform tests per the Project 25 Compliance Assessment Program Governing Board Compliance Assessment Bulletins. As the Project 25 suite of standards continues to mature, and interfaces continue to be developed, software based test tools have and will be developed to advance testing capabilities. These software based test tools, whether developed by a manufacturer, laboratory, or test tool development company, will play an important role in ensuring compliance with Project 25 standards.

The purpose of the March 11 and March 25 meetings is to bring Project 25 Compliance Assessment Program stakeholders together to discuss what the process will be to assess software based test tools for the Project 25 Compliance Assessment Program. Currently, hardware based test tools require calibration of their output, but software test tools are not explicitly covered. The IEEE–12207–2007 standard will be used as a basis of discussion for the meetings. The results of these and potential subsequent discussions will be used in the development of an addendum to the NIST Handbook 153–2008 to specifically cover the validation of software based test tools.

There is no charge for participation for either meeting. For the first meeting, the registration deadline is March 4, 2009. For the second meeting, because of meeting room restrictions, advance registration is mandatory and limited to three representatives from any one organization. There will be no on-site, same-day registration. The registration deadline for the second meeting is March 13, 2009. A teleconference bridge will be provided for the second meeting for those stakeholders that wish to participate but cannot attend in person.

Anyone wishing to attend the first meeting must register by close of business March 4, 2009, in order to participate. Please submit your name, e-mail address and phone number to Mr. Andrew Thiessen and he will provide you with the logistics information for the meeting. Mr. Thiessen's email address is *andrew@its.bldrdoc.gov* and his phone number is (303) 497–4427.

Anyone wishing to attend the second meeting must register by close of business March 13, 2009, in order to attend. Please submit your name, time of arrival, e-mail address and phone number to Ms. Kathy Mayeda and she will provide you with logistics information for the meeting. Ms. Mayeda's e-mail address is *kmayeda@its.bldrdoc.gov* and her phone number is (303) 497–5890. All attendees are required to submit their name, time of arrival, email address and phone number to Ms. Mayeda. Non-U.S. citizens must also submit their country of citizenship, title, employer/sponsor and address.

Dated: February 5, 2009.

Patrick D. Gallagher,

Deputy Director.

[FR Doc. E9–3164 Filed 2–13–09; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XN36

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Research Steering Committee (RSC), in March, 2009, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on Wednesday, March 4, 2009, at 9 a.m.

ADDRESSES: The meeting will be held at the The Westin Hotel, 70 Third Street, Waltham, MA 02451; telephone: (781) 290–5600; fax: (781) 890–5959.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Council's RSC will discuss strategic planning with respect to the region's cooperative research efforts. Cooperative research has been undertaken in various forms throughout New England for 10 years. In order to learn from and enhance the collaborative relationships that have developed between fishermen and scientists, as well as obtain meaningful information to support fisheries management, RSC members will discuss their views on the direction and future of cooperative research. While the RSC's discussion is public, there also will be a formal stakeholder session on cooperative research strategic planning on Wednesday afternoon at 1:30 p.m. for any interested members of the public who would like to participate. The RSC may consider other topics at their discretion.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: February 11, 2009.

Tracey L. Thompson,

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

[FR Doc. E9–3303 Filed 2–13–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XN31

Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Council) and its advisory entities will hold public meetings.

DATES: The Council and its advisory entities will meet March 7–13, 2009. The Council meeting will begin on Sunday, March 8, 2009, at 8 a.m., reconvening each day through Friday. All meetings are open to the public, except a closed session will be held from 8 a.m. until 9 a.m. on Sunday, March 8 to address litigation and personnel matters. The Council will meet as late as necessary each day to complete its scheduled business.

ADDRESSES: Meetings of the Council and its advisory entities will be held at the Marriott Hotel Seattle Airport, 3201 South 176th Street, Seattle, WA 98188; telephone: (206) 241–2000.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220.

FOR FURTHER INFORMATION CONTACT: Dr. Donald O. McIsaac, Executive Director; telephone: (503) 820–2280 or (866) 806–7204 toll free.

SUPPLEMENTARY INFORMATION: The following items are on the Council agenda, but not necessarily in this order:

A. Call to Order

1. Opening Remarks and Introductions
2. Roll Call
3. Executive Director's Report
4. Approve Agenda

B. Open Comment Period

Comments on Non-Agenda Items

C. Coastal Pelagic Species Management

1. Stock Assessment Review Panel Terms of Reference for 2009
2. Experimental Fishing Permit for Sardine Research
3. Fishery Management Plan Amendments to Implement the Magnuson-Stevens Reauthorization Act

D. Salmon Management

1. Review of 2008 Fisheries and Summary of 2009 Stock Abundance Estimates
2. Identification of Stocks Not Meeting Conservation Objectives
3. Identification of Management Objectives and Preliminary Definition of 2009 Salmon Management Options
4. Council Recommendations for 2009 Management Option Analysis
5. (Further) Council Direction for 2009 Management Options (if necessary)
6. Fishery Management Plan Amendments to Implement the Magnuson-Stevens Reauthorization Act
7. Adoption of 2009 Management Options for Public Review
8. Appoint Salmon Hearings Officers

E. Enforcement Issues

U.S. Coast Guard Annual West Coast Fishery Enforcement Report

F. Pacific Halibut Management

1. Report on the International Pacific Halibut Commission Meeting
2. Incidental Catch Regulations in the Salmon Troll and Fixed Gear Sablefish Fisheries

G. Groundfish Management

1. Pacific Whiting Harvest Specifications and Management Measures for 2009
2. Consideration of Inseason Adjustments
3. Fishery Management Plan Amendment 20 - Trawl Rationalization (Scoping of Ownership Trailing Action and Miscellaneous Clarifications)
4. Fishery Management Plan Amendment 20 - Trawl Rationalization (Final Accumulation Limits)
5. Fishery Management Plan Amendment 22: Open Access License Limitation
6. National Marine Fisheries Service Report
7. Final Consideration of Inseason Adjustments (if needed)
8. Essential Fish Habitat Review Committee Terms of Reference

H. Habitat

Current Habitat Issues

I. Administrative Matters

1. Membership Appointments and Council Operating Procedures
2. Approval of Council Meeting Minutes
3. Future Council Meeting Agenda and Workload Planning

SCHEDULE OF ANCILLARY MEETINGS

Saturday, March 7, 2009.	
Scientific and Statistical Committee	8 a.m.
Groundfish Management Team	9 a.m.
Sunday, March 8, 2009.	
Council Secretariat	7 a.m.
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation	7 a.m.
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
Salmon Advisory Subpanel	8 a.m.
Salmon Technical Team	8 a.m.
Scientific and Statistical Committee	8 a.m.
Enforcement Consultants	4:30 p.m.
Monday, March 9, 2009.	
Council Secretariat	7 a.m.
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Enforcement Consultants	8 a.m.
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
Salmon Advisory Subpanel	8 a.m.
Salmon Technical Team	8 a.m.
Tribal Policy Group	As necessary.
Tribal and Washington Technical Group	As necessary.
Washington State Delegation	As necessary.
Tuesday, March 10, 2009.	
Council Secretariat	7 a.m.
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
Salmon Advisory Subpanel	8 a.m.
Salmon Technical Team	8 a.m.
Enforcement Consultants	As necessary.
Tribal Policy Group	As necessary.
Tribal and Washington Technical Group	As necessary.
Washington State Delegation	As necessary.
Wednesday, March 11, 2009.	
Council Secretariat	7 a.m.
California State Delegation	7 a.m.

SCHEDULE OF ANCILLARY MEETINGS—Continued

Oregon State Delegation	7 a.m.
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
Salmon Advisory Subpanel	8 a.m.
Salmon Technical Team	8 a.m.
Habitat Committee	8:30 a.m.
Enforcement Consultants	As necessary.
Tribal Policy Group	As necessary.
Tribal and Washington Technical Group	As necessary.
Washington State Delegation	As necessary.
Thursday, March 12, 2009.	
Council Secretariat	7 a.m.
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
Salmon Advisory Subpanel	8 a.m.
Salmon Technical Team	8 a.m.
Habitat Committee	8:30 a.m.
Enforcement Consultants	As necessary.
Tribal Policy Group	As necessary.
Tribal and Washington Technical Group	As necessary.
Washington State Delegation	As necessary.
Friday, March 13, 2009.	
Council Secretariat	7 a.m.
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Groundfish Advisory Subpanel	As necessary.
Groundfish Management Team	As necessary.
Enforcement Consultants	As necessary.
Tribal Policy Group	As necessary.
Tribal and Washington Technical Group	As necessary.
Washington State Delegation	As necessary.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: February 11, 2009.

Tracey L. Thompson,

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

[FR Doc. E9–3302 Filed 2–13–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Science Advisory Board (SAB)

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of open meeting.

SUMMARY: The Science Advisory Board (SAB) was established by a Decision Memorandum dated September 25, 1997, and is the only Federal Advisory Committee with responsibility to advise the Under Secretary of Commerce for Oceans and Atmosphere on strategies for research, education, and application of science to operations and information services. SAB activities and advice provide necessary input to ensure that National Oceanic and Atmospheric Administration (NOAA) science programs are of the highest quality and provide optimal support to resource management.

Time and Date: The meeting will be held Monday, March 9, 2009, from 10:30 a.m. to 6 p.m. and Tuesday, March 10, 2009, from 8 a.m. to 4:15 p.m. These times and the agenda topics described below are subject to change. Please refer to the Web page *http://www.sab.noaa.gov/Meetings/meetings.html* for the most up-to-date meeting agenda.

Place: The meeting will be held both days at the Hilton Washington DC/Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910. Please check the SAB Web site *http://www.sab.noaa.gov* for confirmation of the venue and for directions.

Status: The meeting will be open to public participation with a 30-minute public comment period on March 9 at 5:30 p.m. (check Web site to confirm time). The SAB expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of five (5) minutes. Written comments should be received in the SAB Executive Director's Office by March 4, 2009 to provide sufficient time for SAB review. Written comments received by the SAB Executive Director after March 4, 2009, will be distributed to the SAB, but may not be reviewed prior to the meeting date. Seats will be available on a first-come, first-served basis.

Matters to be Considered: The meeting will include the following topics: (1) Final Report from the Social Science Working Group; (2) SAB Strategic Planning Session: Transition and Beyond; (3) SAB Recommendations on Options for a National Climate Service; (4) NOAA Response to ''Engaging NOAA's Constituents: A Report from the NOAA Science Advisory Board''; (5) NOAA Response to the SAB Report ''Fire Weather Research: A Burning Agenda for NOAA''; (6) NOAA Response to the SAB Recommendations on High Performance Computing; and (7) SAB Census of Marine Life Subcommittee Update.

FOR FURTHER INFORMATION CONTACT: Dr. Cynthia Decker, Executive Director, Science Advisory Board, NOAA, Rm. 11230, 1315 East-West Highway, Silver Spring, Maryland 20910. (*Phone:* 301–734–1156, Fax: 301–713–1459, *e-mail: Cynthia.Decker@noaa.gov*; or visit the NOAA SAB Web site at *http://www.sab.noaa.gov*.

Dated: February 9, 2009.

Mark E. Brown,

Chief Financial Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. E9–3186 Filed 2–13–09; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF DEFENSE

Department of the Air Force

U.S. Air Force Academy Board of Visitors Notice of Meeting

AGENCY: U.S. Air Force Academy Board of Visitors.

ACTION: Meeting notice.

SUMMARY: Pursuant to 10 U.S.C. 9355, the U.S. Air Force Academy (USAFA) Board of Visitors (BoV) will meet in Harmon Hall, 2304 Cadet Drive, Suite 3300 at the United States Air Force Academy in Colorado Springs, CO on 6–7 March 2009. The meeting session will begin at 9 a.m. on 6 March. The purpose of this meeting is to review morale and discipline, social climate, curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy.

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.155, the Administrative Assistant to Secretary of the Air Force has determined that portions of this meeting shall be closed to the public. The Administrative Assistant to the Secretary of the Air Force, in consultation with the Office of the Air Force General Counsel, has determined in writing that the public interest requires that two portions of this meeting be closed to the public because they will involve matters covered by subsection (c)(6) of 5 U.S.C. 552b.

Public attendance at the open portions of this USAFA BoV meeting shall be accommodated on a first-come, first-served basis up to the reasonable and safe capacity of the meeting room. In addition, any member of the public wishing to provide input to the USAFA BoV should submit a written statement in accordance with 41 CFR 102–3.140(c) and section 10(a)(3) of the Federal Advisory Committee Act (FACA) and the procedures described in this paragraph. Written statements must address the following details: the issue, discussion, and a recommended course of action. Supporting documentation may also be included as needed to establish the appropriate historical context and provide any necessary background information. Written statements can be submitted to the Designated Federal Officer (DFO) at the Air Force Pentagon address detailed below at any time. However, if a written statement is not received at least 10 days before the first day of the meeting which is the subject of this notice, then it may not be provided to, or considered by, the BoV until its next open meeting. The DFO will review all timely submissions with the BoV Chairperson and ensure they are provided to members of the BoV before the meeting that is the subject of this notice. For the benefit of the public, rosters that list the names of BoV members and any releasable materials presented during open portions of this BoV meeting shall be made available upon request.

If, after review of timely submitted written comments, the BoV Chairperson and DFO deem appropriate, they may choose to invite the submitter of the written comments to orally present their issue during an open portion of the BoV meeting that is the subject of this notice. Members of the BoV may also petition the Chairperson to allow specific persons to make oral presentations before the BoV. Any oral presentations before the BoV shall be in accordance with 41 CFR 102–3.140(d), section 10(a)(3) of the FACA, and this paragraph. The DFO and BoV Chairperson may, if desired, allot a specific amount of time for members of the public to present their issues for BoV review and discussion. Direct questioning of BoV members or meeting participants by the public is not permitted except with the approval of the DFO and Chairperson.

For further information or to attend this BoV meeting, contact Mr. Richard Engle, USAFA Programs Manager, Directorate of Force Development, Deputy Chief of Staff, Manpower and Personnel, AF/A1DOA, 2221 S. Clark St., Ste. 500, Arlington, VA 22202, (703) 602–5075. If members of the public would like to attend, please contact the USAFA Public Affairs Office, (719) 333–7731 for information on access to the Academy meeting site.

Bao-Anh Trinh,

Air Force Federal Register Liaison Officer.

[FR Doc. E9–3360 Filed 2–13–09; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID USAF–2009–0016]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to add a system of records.

SUMMARY: The Department of the Air Force is proposing to add a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on March 19, 2009 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Air Force Privacy Act Officer, Office of Warfighting Integration and Chief Information Officer, SAF/XCISI, 1800 Air Force Pentagon, Suite 220, Washington, DC 20330–1800.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Brodie at (703) 696–7557.

SUPPLEMENTARY INFORMATION: The Department of the Air Force notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, will be submitted on January 8, 2009, to the House Committee on Government Oversight and Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated

February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: February 11, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F036 HAF A

SYSTEM NAME:

Air Force Outreach Request Records.

SYSTEM LOCATION:

Headquarters United States Air Force; Headquarters of Major Commands; Field Operating Agencies; Direct Reporting Units; Headquarters of Combatant Commands for which Air Force is Executive Agent and all Air Force installations and units. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilian personnel and members of the public making requests through the Air Force Outreach System (AFORS).

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes data pertaining to the bands, speakers and representatives who represent the Air Force at events, data pertaining to individuals and organizations who submit requests in the AFORS system and data pertaining to the events themselves.

Includes individual's name, Social Security Number (SSN), rank, home, work and cellular telephone number, street address, personal and work e-mail address, organization name, biographies of volunteers, event date, location, title, category, audience type, priority, schedule, type of band/music requested, type of speech or representation requested, request status, approval/disapproval and after action data. Volunteers can attach documents with information such as home town, parents' home town, deployments or operations, special interests, degree or major, college or university, foreign languages, job specialty and/or weapon system expertise, preferred speaking topics and preferred speaking times.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force; AFI 35–101, Public Affairs Policies and Procedures; DoDD 5410.18, Public Affairs Community Relations Policy and E.O. 9397 (SSN).

PURPOSE(S):

The Air Force receives requests to send a band, speaker or representative to participate in events put on by military, governmental and private organizations. This data is used to assist the Public Affairs Office in selecting the events to which the Air Force will send representatives, find the most appropriate band, speaker or representative for each event and briefing the person or band appointed before his, her or its appearance.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The DoD 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are maintained in folders and electronic storage media.

RETRIEVABILITY:

Files are retrieved by name.

SAFEGUARDS:

Records are accessed by persons responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need to know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Retain in office files until superseded, obsolete or no longer needed for reference. Records are destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Computer records are destroyed by erasing, deleting or overwriting.

Case files which result in an initially favorable adjudicative determination are destroyed. Case files resulting in an adverse adjudicative determination are retained in office files for three calendar years after the close of case and then retired to the National Archives on January 1 of the following year.

SYSTEM MANAGER(S) AND ADDRESS:

Mr. James A. Brewer, 200 W. Adams St., Ste. 1440, Chicago, IL 60606–5226 or SMSgt Daniel E. Friedly, 1690 AF Pentagon, Washington, DC 20330–1690.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries with notary certified signature to:

REQUESTS CONCERNING AIR FORCE SPEAKERS AND REPRESENTATIVES:

Mr. James A. Brewer, 200 W. Adams St., Ste. 1440, Chicago, IL 60606–5226.

REQUESTS CONCERNING AIR FORCE BANDS:

SMSgt Daniel E. Friedly, 1690 AF Pentagon, Washington, DC 20330–1690.

Individuals should provide full name, including any former names, rank, grade, address and phone number.

RECORD ACCESS PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries with notary certified signature to:

REQUESTS CONCERNING AIR FORCE SPEAKERS AND REPRESENTATIVES:

Mr. James A. Brewer, 200 W. Adams St., Ste. 1440, Chicago, IL 60606–5226.

REQUESTS CONCERNING AIR FORCE BANDS:

SMSgt Daniel E. Friedly, 1690 AF Pentagon, Washington, DC 20330–1690.

Individuals should provide full name, including any former names, rank, grade, address and phone number.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting contents, and appealing initial agency determinations are published in Air Force Instruction 33–332; 32 CFR, part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is received from persons requesting Air Force Speakers and Representatives at events, volunteers as speakers or representatives of the Air Force and persons requesting Air Force Bands.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E9–3368 Filed 2–13–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for the Proposed Honolulu Seawater Air Conditioning Project, Honolulu, O'ahu, Hawai'i, Department of the Army Regulatory File Number POH–2004–1141

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The Honolulu Seawater Air Conditioning, LLC proposes to construct

a seawater air conditioning system (SWAC) at Kaka'ako on the south shore of O'ahu in order to provide a renewable-energy air conditioning system for downtown Honolulu buildings. The applicants propose to construct intake and return pipelines in adjacent coastal waters to utilize available deep, offshore cold seawater for their planned onshore cooling plant. The proposed pipeline staging and installation sites are located within the navigable waters of the United States and the proposed activity is subject to the regulatory jurisdiction of the U.S. Army Corps of Engineers.

DATES: In order to be considered in preparation of the DEIS, comments and suggestions should be received no later than March 20, 2009.

ADDRESSES: Send written comments to U.S. Army Corps of Engineers, Honolulu District; ATTN: Regulatory Branch (CEPOH–EC–R/P. Galloway); Building 230; Fort Shafter, HI 96858–5440. Facsimile comments can be sent to 808–438–4060. Comments may also be submitted via e-mail to: *honoluluswac@usace.army.mil.*

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and the Draft Environmental Impact Statement (DEIS) should be addressed to: Mr. Peter Galloway (see **ADDRESSES**), Telephone 808–438–8416.

SUPPLEMENTARY INFORMATION: Honolulu Seawater Air Conditioning, LLC proposes to develop a seawater air conditioning system (SWAC) to serve the downtown area of Honolulu. The SWAC system would utilize available deep, cold seawater obtained offshore of Kaka'ako on the south shore of O'ahu.

To obtain, utilize, and return seawater, the applicant proposes to construct a 63-inch diameter seawater intake pipe extending offshore approximately four miles, to a depth of 1,770 feet; a 55-inch diameter seawater return pipe extending offshore approximately 2,000 feet, to a depth of 150 feet; an on-shore cooling station containing pumps, heat exchangers and auxiliary chillers; and a network of distribution pipes to circulate cooled fresh water from the station to customer buildings in the downtown area. In addition, the applicant proposes to use an area along the western shore of Sand Island and the adjoining channel area of Ke'ehi Lagoon for pipeline assembly and staging prior to towing and installing the lines at the project site. Individual pipe segments would be heat-fused to form longer segments and then flange-bolted to form a continuous line.

At the project site, the pipelines would be buried from behind the shore to some depth offshore in order to reduce negative impacts to the benthic environment and to protect the pipes from high waves and storm surge in the nearshore zone. The offshore portions of the intake and return pipelines, which would be installed adjacent to each other, would be supported on pre-cast concrete supports which would be placed on the pipelines prior to their filling and sinking at the project site. The seaward end of the intake line would be unscreened and would terminate in a right-angle elbow, such that water would be drawn down into the pipe from about 14 feet above the sea bottom. The seaward end of the return pipeline would terminate in a diffuser section extending from depths of 120 to 150 feet.

The proposed project would involve work or structures in or affecting the course, condition, location or capacity of navigable waters of the United States. It would also involve the discharge of dredged or fill material into waters of the United States. Federal authorization of the project will therefore require issuance of a Department of the Army (DA) permit pursuant to both Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

In addition to the no-action alternative and the applicant's proposal, other alternatives to be considered in the DEIS may include: (1) Project utilizing different technology; (2) project with different size, alignment or location.

Potentially significant impacts identified to date and to be addressed in the DEIS include: (1) Reduction in demand for fossil fuel-based electrical energy consumption in the service area; (2) setting of precedent for use of large-scale SWAC on O'ahu; (3) commitment to long-term presence of elevated intake and outfall pipelines in navigable waters which will require avoidance by future activities that could damage the lines; (4) temporary (estimated 10-month) displacement of canoe paddlers and other users of the Ke'ehi Lagoon pipeline staging area; (5) short-term and long-term changes in benthic habitat; (6) entrainment of sea life by the unscreened seawater intake during system operation; (7) effects of project construction and operation on federally protected species (sea turtles, cetaceans, monk seals); (8) uncertain long-term water quality effects of discharged return flow.

The decision whether to issue a DA permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof: among these are conservation, economics, aesthetics, general environmental concerns, wetlands, historic values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. Evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency (40 CFR Part 230).

The Corps anticipates that consultations will be required pursuant to provisions of the Magnuson-Stevens Fishery Conservation and Management Act, Section 7 of the Endangered Species Act, and Section 106 of the National Historic Preservation Act. Before a final DA permit can be issued, the applicant must first obtain a Hawai'i Coastal Zone Management (CZM) Program federal consistency certification issued by the State of Hawai'i Department of Business, Economic Development and Tourism, and a Clean Water Act Section 401 Water Quality Certification, or waiver thereof, issued by the State of Hawai'i Department of Health.

The Corps invites participation in the EIS process of affected federal, state and local agencies; affected Hawaiian organizations, individuals and practitioners; and other interested private organizations and parties. The applicant has previously issued a state-level DEIS pursuant to requirements of the Hawai'i Revised Statutes (HRS Chapter 343). All comments received in response to this NOI will be considered when determining the scope of the federal DEIS.

A public scoping meeting will be held on Thursday, March 5, 2009, at the McKinley High School Cafeteria, 1039 South King Street, Honolulu, Hawai'i, from 6:30 p.m. until 8:30 p.m., to help determine the scope of analysis of the proposed action. The scoping meeting will also be announced in local media.

Interested parties are encouraged to express their views during the scoping process and throughout the development of alternatives and the federal DEIS. To be most helpful, comments should clearly describe specific environmental topics or issues which the commenter believes the document should address. Further information concerning the proposed or the scoping meeting may be obtained from Peter C. Galloway (see **ADDRESSES**). The DEIS is expected to be published and circulated for review in mid-2009, and the final EIS is expected to be completed 4 to 6 months later.

Dated: February 3, 2009.

John W. Henderson,

Major, U.S. Army, Acting Commander.

[FR Doc. E9–3251 Filed 2–13–09; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Concerning Polarization Correlation Signal Processing for Ladars and Radars

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6 and 404.7, announcement is made of the availability for licensing of the invention set forth in U.S. Patent No. 6,967,617 entitled ''Polarization Correlation Signal Processing for Ladars and Radars,'' issued on November 22, 2005. The United States Government, as represented by the Secretary of the Army, has rights in this invention.

ADDRESSES: Office of Research and Technology Applications, SDMC–RDTC–TDL (Ms. Susan D. McRae), Bldg. 5220, Von Braun Complex, Redstone Arsenal, AL 35898.

FOR FURTHER INFORMATION CONTACT: Ms. Joan Gilsdorf, Patent Attorney, e-mail: *joan.gilsdorf@smdc.army.mil;* (256) 955–3213 or Ms. Susan D. McRae, Office of Research and Technology Applications, e-mail: *susan.mcrae@smdc.army.mil*; (256) 955–1501.

SUPPLEMENTARY INFORMATION: The invention pertains to correlating a received waveform of a wideband electromagnetic signal with a predetermined waveform. A correlating polarimeter includes a first antenna for receiving an electromagnetic signal and a modulator interconnected with the first antenna for modulating the electromagnetic signal. A modulated electromagnetic signal results that contains a different polarization state for each frequency of the electromagnetic signal with the amplitude of each frequency component of the modulated electromagnetic signal being a function of the particular polarization state of each frequency component of the electromagnetic signal. The correlating polarimeter may also include a linear polarizer that can be configured to pass a first predetermined polarization of the modulated electromagnetic signal through a first output thereof, a first receiver for receiving and demodulating the electromagnetic signal from the linear polarizer and outputting a received waveform, and a correlator interconnected with the first receiver to compare the received waveform to a predetermined waveform and output a correlation indicator.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. E9–3250 Filed 2–13–09; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA–2009–0002]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to add a system of records.

SUMMARY: The Department of the Army is proposing to add a system of records in its existing inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The proposed action will be effective on March 19, 2009 unless comments are received that would result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Division, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Dickerson at (703) 428–6513.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on January 30, 2009, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals', dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: February 11, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0195–2d USACIDC DoD

SYSTEM NAME:

Defense Criminal Investigation DNA Database and Sample Repository; CODIS Records.

SYSTEM LOCATION:

U.S. Army Criminal Investigation Laboratory, 4930 N 31st Street, Forest Park, GA 30297–5205.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Defense military personnel from whom DNA has been collected under applicable laws and regulations as noted below under authority for maintenance of the system.

Civilians from whom DNA has been collected by military investigators under applicable laws and regulations as noted below under authority for maintenance of the system.

Civilian or military family members who are the close biological relatives of missing persons and who voluntarily provide specimens for DNA typing.

Persons associated with law enforcement and/or criminal investigations reported as missing or whose whereabouts are unknown and sought.

DoD civilian and contractor personnel working at the U.S. Army Criminal Investigation Laboratory or other law enforcement activities who provide specimens for DNA typing for elimination purposes and/or whose names are required for sample processing.

Persons of unknown identity whose DNA is recovered from a crime scene or carried away from a crime scene.

CATEGORIES OF RECORDS IN THE SYSTEM:

Specimen collections from which a DNA analysis can be obtained (buccal (oral) samples, blood samples), and DNA analyses. Accession number, collection kit number, specimen tracking information, collection date,

place of collection, court orders, criminal offense information, individual's name, Social Security Number (SSN), fingerprints, branch of service, date of birth. Documentation and data required to manage and operate the Combined DNA Index System (CODIS). DNA analyses from crime scene evidence, missing persons, relatives of missing persons and unidentified human remains.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C 3013, Secretary of the Army; 10 U.S.C. 1565, DNA Sample Collection, Analysis, and Indexing; 42 U.S.C. 14132 *et seq.*, Index to facilitate law enforcement exchange of DNA identification information; Army Regulation 195–2; The DNA Analysis Backlog Elimination Act of 2000, Public Law 106–546; U.S.A. Patriot Act, Pub. L. 107–56; The Justice for All Act of 2004, Public Law 108–405; The DNA Fingerprint Act of 2005, Public Law 109–162; Adam Walsh Child Protection and Safety Act of 2006, Public Law 109–248; Department of Justice Implementing Rules, DNA Sample Collection and Biological Evidence Preservation in the Federal Jurisdiction, 28 CFR Part 28; DoD Policy on Collecting DNA Samples from Military Prisoners, April 18, 2005, Dr. David Chu, Under Secretary of Defense and E.O. 9397 (SSN).

PURPOSE:

Information will be used for criminal and missing person investigations; quality assurance and control; department protocol development; management studies; to generate statistics on the database and department forensic identification research.

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, the records or information contained herein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To Federal, state, local, tribal and foreign criminal justice agencies for law enforcement identification purposes and for missing person identification purposes. Information concerning criminal or possible criminal activity is disclosed to Federal, state, local and/or foreign law enforcement agencies whose need is related to the enforcement of criminal law.

To a proper authority in connection with judicial proceedings, if otherwise admissible pursuant to requested law and regulations including by facially valid court order.

To a defendant, for criminal defense purposes, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged.

To criminal justice agencies, if personally identifiable information is removed, for identification research and protocol development or for quality control purposes.

To a close biological relative of a missing person, who shall have access to analyses performed on his or her own sample, where that sample was submitted to help identify the missing person.

To DoD civilian employees and contractor personnel working at the United States Army Criminal Investigation Laboratory or other law enforcement activities, who shall have access to analyses performed on their own samples.

To the National DNA Index System (NDIS) for use in criminal investigations and missing person investigations, where allowable.

The DoD ''Blanket Routine Uses'' set forth at the beginning of the Army's, Navy's, Marine Corps' and Air Force's compilation of systems of records notices also apply to this system of records.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

STORAGE:

In paper file folders and/or electronic storage media. Samples are stored by a method consistent with the method of collection and may be stored in file cabinets at room temperature or in freezers.

RETRIEVABILITY:

By name, Social Security Number (SSN), date of birth, accession number, DNA profile, and/or fingerprints.

SAFEGUARDS:

The United States Army Criminal Investigation Laboratory is a continuously monitored secure facility with access controlled by card key. All personnel have security clearance. Access to spaces within the laboratory where data and samples are maintained is further controlled by cipher lock. All workstations are password protected.

RETENTION AND DISPOSAL:

Disposition is pending upon National Archives and Record Administration approval, until then treat as Permanent.

SYSTEM MANAGER AND ADDRESS:

Director, U.S. Army Criminal Investigation Laboratory, *ATTN:* Operations, 4930 N 31st Street, Forest Park, GA 30297–5205.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, U.S. Army Crime Records Center, U.S. Army Criminal Investigation Command, *ATTN:* CICR–FP, 6010 6th Street, Building 1465, Fort Belvoir, VA 22060–5585.

Requests must be made in writing and contain sufficient information to uniquely identify a record (such as full name, date of birth and Social Security Number (SSN)).

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this record system should address written inquiries to the Director, U.S. Army Crime Records Center, U.S. Army Criminal Investigation Command, *ATTN:* CICR–FP, 6010 6th Street, Building 1465, Fort Belvoir, VA 22060–5585.

Requests must be made in writing and contain sufficient information to uniquely identify a record (such as full name, date of birth and Social Security Number (SSN)).

CONTESTING RECORDS PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in AR 340–21 (32 CFR part 505) or may be obtained from the systems manager.

RECORD SOURCE CATEGORIES:

DoD criminal justice agencies and personnel including, but not limited, to legal offices, investigative offices and confinement facilities. Other CODIS and/or NDIS participating laboratories.

EXEMPTIONS:

Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency that performs as its principle function any activity pertaining to the enforcement of criminal laws.

An exemption rule for this record system has been promulgated according to the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 505. For additional information contact the system manager.

[FR Doc. E9–3372 Filed 2–13–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Supplemental Draft Environmental Impact Statement for the Proposed Northern Integrated Supply Project in Northeastern Colorado

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers (COE) is preparing a Supplemental Draft Environmental Impact Statement (SDEIS) to further analyze the direct, indirect and cumulative effects of the Northern Integrated Supply Project (NISP). Construction of the proposed Project will result in temporary and permanent impacts to jurisdictional waters of the United States, thereby requiring a Clean Water Act Section 404 permit. The COE released a Draft Environmental Impact Statement (DEIS) for NISP April 30, 2008. Significant comments were received during three public hearings held for the Draft Environmental Impact Statement (DEIS) as well as submitted during the comment period. The COE has determined that substantial additional analysis is required and that the purposes of the National Environmental Policy Act would be furthered through the preparation of the SDEIS.

FOR FURTHER INFORMATION CONTACT: Questions and comments regarding the proposed action and SDEIS should be addressed to Chandler Peter, NEPA/404b1 Coordinator, U.S. Army Corps of Engineers, 9307 South Wadsworth Boulevard, Littleton, CO 80128; (303) 979–4120; *chandler.j.peter@usace.army.mil*.

SUPPLEMENTARY INFORMATION: NISP is a collaborative regional water supply project between 15 water providers (Participants) and the Northern Colorado Water Conservancy District acting by and through the Northern Integrated Supply Project Water Activity Enterprise (District). The Participants are a group of growing towns and rural domestic water districts located in Larimer, Weld, and Boulder Counties, CO. The participants are: Central Weld County Water District, Dacono, Eaton, Erie, Evans, Firestone, Frederick, Fort Collins Loveland Water District, Fort Lupton, Fort Morgan, Lafayette, Left Hand Water District, Morgan County Quality Water District, Severance, and Windsor. The project will provide approximately 40,000 acre-feet of new reliable water supply, which will meet a portion of the Participants' estimated 2025 additional water supply needs. The Northern Integrated Supply Project would be a non-federal project constructed, owned and operated by the District.

The SDEIS will be prepared according to the COE's procedures for implementing the National Environmental Policy Act (NEPA) of 1969, as amended, 42 U.S.C.4332(2)(c), and consistent with the COE's policy to facilitate public understanding and review of agency proposals. A full range of reasonable alternatives, including the proposed Project and no action, were evaluated in the DEIS. Revisions to some of those alternatives as well as additional analysis involving factors such as hydrology, geomorphology, aquatic resources, water quality, and cumulative effects will be accomplished in the SDEIS. Scoping meetings will not be held pursuant to 40 CFR 1502.9(c)(4). Public hearings will be conducted on the SDEIS which has an anticipated release of June 2010.

The U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, the Colorado Department of Transportation, and Larimer County are cooperating agencies in the formulation of the EIS.

Chandler J. Peter,

NEPA/404b1 Coordinator, Operations Division, Omaha District.

[FR Doc. E9–3249 Filed 2–13–09; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Board on Coastal Engineering Research

AGENCY: Department of the Army, DoD.

ACTION: Notice of meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of Committee: Board on Coastal Engineering Research.

Date of Meeting: March 4–5, 2009.

Place: Duke of Gloucester Room, Maryland Inn, 16 Church Circle, Annapolis, MD 21401.

Time: 8:30 a.m. to 4 p.m. (March 4, 2009).

8 a.m. to 12 p.m. (March 5, 2009).

FOR FURTHER INFORMATION CONTACT: Inquiries and notice of intent to attend the meeting may be addressed to COL Gary E. Johnston, Executive Secretary, Engineer Research and Development Center, Waterways Experiment Station, 3909 Halls Ferry Road, Vicksburg, MS 39180–6199.

SUPPLEMENTARY INFORMATION: The Board provides broad policy guidance and review of plans and fund requirements for the conduct of research and development of research projects in consonance with the needs of the coastal engineering field and the objectives of the Chief of Engineers.

Proposed Agenda: This meeting is devoted to an Executive Session of the Board to develop recommendations to the Chief of Engineers regarding the importance of MORPHOS model and other research needed as part of the Board's on-going task of developing the concept of a ''Systems Approach to Coastal Management'' and to develop a plan of action for the Board's continuing work on the systems concept.

The meeting is open to the public, but since seating capacity of the meeting room is limited, advance notice of intent to attend, although not required, is requested in order to assure adequate arrangements for those wishing to attend.

Gary E. Johnston,

Colonel, U.S. Army Corps of Engineers, Executive Secretary.

[FR Doc. E9–3253 Filed 2–13–09; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Inventions; Available for Licensing

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are available for licensing by the Department of the Navy. U.S. Patent Application Number 11/220,189 filed on September 01, 2005, Navy Case Number 76519 entitled ''Method for Reducing Hazards''; U.S. Patent Application Number 12/136,427 filed on June 10, 2008, Navy Case Number 83687 entitled ''System Analysis Modeling Apparatus and Method''; U.S. Patent Application Number 11/543,277 filed on October 06, 2006, Navy Case Number 84818 entitled ''Method for Dyeing High Density Polyethylene Fiber Fabric''; U.S. Patent Application Number 11/499,977 filed on August 03, 2006, Navy Case Number

84935 entitled ''Cleaning Device for Fiber Optic Connector''; U.S. Patent Application Number 11/805,263 filed on June 15, 2007, Navy Case Number 84998 entitled ''Moveable Deck to Mitigate Effects of Shock''; U.S. Patent Application Number 11/264,336 filed on October 27, 2005, Navy Case Number 95904 entitled ''Oleaginous Corrosion Resistant Composition''; U.S. Patent Application Number 11/586,750 filed October 05, 2006, Navy Case Number 96330 entitled ''Gesture Recognition Apparatus and Method''; U.S. Patent Application Number 11/845,684 filed January 26, 2006, Navy Case Number 96334 entitled ''Radially Compressive Rope Assembly''; U.S. Patent Application Number 11/973,986 filed October 15, 2007, Navy Case Number 97027 entitled ''System for Isolating Faults between Electrical Equipment''; U.S. Patent Application Number 11/151,170 filed June 10, 2005, Navy Case Number 97040 entitled ''Composition and Process for Removing and Preventing Mildew and Fungal Growth''; U.S. Patent Application Number 11/325,283 filed December 20, 2005, Navy Case Number 97473 entitled ''Oleaginous Corrosion and Mildew-Inhibiting Composition''; U.S. Patent Application Number 11/345,686 filed January 26, 2006, Navy Case Number 97567 entitled ''Corrosion Inhibiting Mildew Remover Kit''; U.S. Patent Application Number 11/900,143 filed on September 05, 2007, Navy Case Number 97946 entitled ''Optical Bench Fiber Optic Transmitter''; U.S. Patent Application Number 12/185,985 filed on August 05, 2008, Navy Case Number 98005 entitled ''Environmentally Assisted Processor in Sonar''; U.S. Patent Application Number 12/056,707 filed on March 28, 2008, Navy Case Number PAX03 entitled ''Parachute Opening Shock Emulator (POSE)''; U.S. Patent Application Number 12/111,434 filed on April 30, 2008, Navy Case Number PAX04 entitled ''Counter Measure Expendable Load Simulator''; U.S. Patent Application Number 12/114,063 filed on May 02, 2008, Navy Case Number PAX05 entitled ''Variable Intensity LED Illumination System''; U.S. Patent Application Number 12/113,387 filed on May 01, 2008, Navy Case Number PAX08 entitled ''Method and System for Alerting Aircrew to Unsafe Vibration Levels''; U.S. Patent Application Number 12/364,540 filed on February 03, 2009, Navy Case Number PAX12 entitled ''Metal Rich Coatings Composition''; U.S. Patent Application Number 12/261,457 filed on October 30, 2008, Navy Case Number PAX16 entitled ''Method of redundant Data Transmission for Reducing the Bill Error Rate''; U.S. Patent Number 5,721,632 entitled ''Excited State Polarization Altering Optical Filter'', issued February 24, 1998; U.S. Patent Number 5,822,047 entitled ''Modulator LIDAR System'', issued October 13, 1998; U.S. Patent Number 6,411,450 entitled ''Method of Assessing the Effectiveness of a Laser Eye Protection Device'', issued June 25, 2002; U.S. Patent Number 6,557,570 entitled ''Portable Apparatus for Cleaning a Conduit and Method for Cleaning a Conduit'', issued May 06, 2003''; U.S. Patent Number 7,430,152 entitled ''System and Method of Operation thereof for Increasing Acoustic Bandwidth of Transmitting Device'', issued September 30, 2008; U.S. Patent Number 7,464,413 entitled ''Rapid Release Mechanism for Textile Apparel Pockets (Receptacles) and Packs (Stowage Receptacles)'' issued December 16, 2008.

ADDRESSES: Request for data and inventor interviews should be director to Mr. Paul Fritz, Naval Air Warfare Center Aircraft Division, Business Office, Office of Research and Technology Applications, Building 505, 22473 Millstone Road, Patuxent River, MD 20670, *telephone number:* 301–342–5586 or *e-mail Paul.Fritz@navy.mil.*

DATES: Request for data, samples, and inventor interviews should be made prior to April 5, 2009.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Fritz, Office of Research and Technology Applications, Building 505, Naval Air Warfare Center Aircraft Division, 22473 Millstone Road, Patuxent River, MD 20670, *telephone number:* 301–342–5586, *Paul.Fritz@navy.mil.*

SUPPLEMENTARY INFORMATION: The U.S. Navy intends to move expeditiously to license these inventions. All licensing application packages and commercialization plans must be returned to Naval Air Warfare Center Aircraft Division, Business Office, Office of Research and Technology Applications, Building 505, 22473 Millstone Road, Patuxent River, MD 20670.

The Navy, in its decisions concerning the granting of licenses, will give special consideration to existing licensee's, small business firms, and consortia involving small business firms. The Navy intends to ensure that its licensed inventions are broadly commercialized throughout the United States.

PCT application may be filed for each of the patents as noted above. The Navy intends that licensees interested in a license in territories outside of the United States will assume foreign prosecution and pay the cost of such prosecution.

Authority: (35 U.S.C. 207, 37 CFR Part 404.)

Dated: February 10, 2009.

A.M. Vallandingham,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E9–3362 Filed 2–13–09; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Partially Closed Meeting of the Chief of Naval Operations (CNO) Executive Panel

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The CNO Executive Panel will report on the findings and recommendations to the Chief of Naval Operations of the Subcommittee on Naval Support to the Global War on Terror (GWOT). The executive session of this meeting will include discussions of the Navy force structure to support Global War or Terrorism/Irregular Warfare (IW); Navy strategies to implement current/future GWOT tasking; Navy strategies to support Combatant Commanders; and a conclusion/summary on the discussion.

The executive session of this meeting will be closed to the public.

DATES: The open session of the meeting will be held on Wednesday, March 4, 2009, from 1 p.m. to 1:30 p.m. The closed Executive Session will be held from 1:30 p.m. to 4:30 p.m.

ADDRESSES: The meeting will be held in Conference Room 1A01, The Center for Naval Analysis, 4825 Mark Center Drive, Alexandria, VA 22311–1846, telephone number: 703–681–4908.

FOR FURTHER INFORMATION CONTACT: CDR David Di Tallo, CNO Executive Panel, 4825 Mark Center Drive, Alexandria, VA 22311–1846, telephone number: 703–681–4908.

SUPPLEMENTARY INFORMATION: This notice of meeting is provided per the Federal Advisory Committee Act, as amended (5 U.S.C. App.). The executive session of the meeting will consist of discussion of Global War on Terrorism. The proposed closed session will be held from 1:30 p.m. to 4:30 p.m. and will include a discussion of Global War on Terrorism. Discussion of such information cannot be adequately segregated from other topics, which

precludes opening the executive session of this meeting to the public.

Accordingly, the Secretary of the Navy has determined in writing that the meeting shall be partially closed to the public because it will be concerned with matters listed in sections 552b(c)(5), and (7) of title 5, United States Code.

Dated: February 10, 2009.

A.M. Vallandingham,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E9–3387 Filed 2–13–09; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID USN–2009–0002]

Privacy Act of 1974; System of Records

AGENCY: U.S. Marine Corps, DoD.

ACTION: Notice to amend a system of records.

SUMMARY: The U.S. Marine Corps is proposing to amend a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on March 19, 2009 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to Headquarters, U.S. Marine Corps, FOIA/PA Section (ARSF), 2 Navy Annex, Room 3134, Washington, DC 20380–1775.

FOR FURTHER INFORMATION CONTACT: Ms. Tracy Ross at (703) 614–4008.

SUPPLEMENTARY INFORMATION: The U.S. Marine Corps systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: February 11, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

MMC00002

SYSTEM NAME:

Working Files, Inspection Division (August 3, 1993, 58 FR 41254).

CHANGES:

Change System ID to ''M05040–1.''

* * * * *

CATEGORY OF RECORDS:

Delete entry and replace with ''Individual's name, Social Security Number (SSN), case number, former military number, rank, dates and places of service, file also contains information pertaining to identification, recruitment, enlistment, prior service, assignment, location addresses, promotions, reductions in rank, performance of duty, discipline, offenses and punishments under the Uniform Code of Military Justice, courts-martial, personal history, investigations, police and court records, civil arrests and convictions, Official correspondence (includes internal Marine Corps and Department of the Navy correspondence, as well as correspondence with the Executive and Legislative branches of the federal government) and other correspondence (includes correspondence from Marines, their dependents and families, attorneys, doctors, educators, clergymen and members of the general public whether addressed directly to the Marine Corps or via third parties (president, congressmen, etc.)).''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 5014, Secretary of the Navy; 10 U.S.C. 5041; Headquarters, Marine Corps; 10 U.S.C. 5020, Naval Inspector General: details; duties; SECNAVINST 5430.57G, Mission and Functions of the Naval Inspector General, December 29, 2005; MCO 5430.1 Marine Corps Inspector General Program; November 13, 2006 and E.O. 9397 (SSN).''

PURPOSE(S):

Delete entry and replace with ''To determine the facts and circumstances surrounding allegations or complaints against Department of the Navy personnel and/or Navy/Marine Corps activities.

To present findings, conclusions and recommendations developed from investigations and other inquiries to the Secretary of the Navy, Chief of Naval Operations, Commandant of the Marine Corps, or other appropriate Commanders.''

* * * * *

STORAGE:

Delete entry and replace with ''File folders and electronic storage media.''

RETRIEVABILITY:

Delete entry and replace with ''By subject's or complainant's name; case name and other case fields.''

SAFEGUARDS:

Delete entry and replace with ''Building where files are stored and maintained employs 24 hour security guards. Records are further stored in areas of controlled access and handled by personnel with a need-to-know in the execution of their official duties. Additionally, access to electronic records is restricted only by authorized persons who are properly screened. This system is password and/or System software uses Primary Key Infrastructure (PKI)/Common Access Card (CAC) protected. Based on user profiles, there are different levels of access. Full access to information maintained in the database is available only to authorized Agency personnel with established official need-to-know. Records are maintained in secure, limited access, or monitored work areas accessible only to authorized personnel.''

RETENTION AND DISPOSAL:

Delete and replace with ''Destroy when six years old and shred beyond recognition, as required by current Marine Corps personally identifiable information disposal procedures.''

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commandant of the Marine Corps (Code IGA), Headquarters, U.S. Marine Corps, Washington, DC 20380–1775.

Written requests for information should contain the full name of the individual and Social Security Number (SSN) or former military service number. The following information will also be helpful in locating some records; military rank and occupational specialty, dates and places of service, and any special correspondence previously received or sent.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to

information about themselves contained in this system should address written inquiries to the Commandant of the Marine Corps (Code IGA), Headquarters, U.S. Marine Corps, Washington, DC 20380–1775. However, final determination as to whether any information will be released or made available will be controlled by the system manager.

Written requests for information should contain the full name of the individual and Social Security Number or former military service number. The following information will also be helpful in locating some records; military rank and occupational specialty, dates and places of service, and any special correspondence previously received or sent.''

CONTESTING RECORD PROCEDURES:

Delete entry and replace with ''The USMC rules for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5E; 32 CFR part 701; or may be obtained from the system manager.''

* * * * *

M05040–1

SYSTEM NAME:

Working Files, Inspection Division.

SYSTEM LOCATION:

Headquarters, U.S. Marine Corps, Washington, DC 20380–1775.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the U.S. Marine Corps and Marine Corps Reserve; former members of the Marine Corps and Marine Corps Reserve; retired and temporarily retired members of the Marine Corps and Marine Corps Reserve; and members of the Fleet Marine Corps Reserve; military personnel. Dependents of Marines and other family members with respect to matters pertaining to the individual Marine or former Marine.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number (SSN), case number, former military number, rank, dates and places of service, file also contains information pertaining to identification, recruitment, enlistment, prior service, assignment, location addresses, promotions, reductions in rank, performance of duty, discipline, offenses and punishments under the Uniform Code of Military Justice, courts-martial, personal history, investigations, police and court records, civil arrests and convictions, Official correspondence (includes internal Marine Corps and Department of the Navy correspondence, as well as correspondence with the Executive and Legislative branches of the federal government) and other correspondence (includes correspondence from Marines, their dependents and families, attorneys, doctors, educators, clergymen and members of the general public whether addressed directly to the Marine Corps or via third parties (president, congressmen, etc.)).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5014, Secretary of the Navy; 10 U.S.C. 5041; Headquarters, Marine Corps; 10 U.S.C. 5020, Naval Inspector General: details; duties; SECNAVINST 5430.57G, Mission and Functions of the Naval Inspector General, December 29, 2005; MCO 5430.1 Marine Corps Inspector General Program; November 13, 2006 and E.O. 9397 (SSN).

PURPOSE(S):

To determine the facts and circumstances surrounding allegations or complaints against Department of the Navy personnel and/or Navy/Marine Corps activities.

To present findings, conclusions and recommendations developed from investigations and other inquiries to the Secretary of the Navy, Chief of Naval Operations, Commandant of the Marine Corps, or other appropriate Commanders.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Marine Corps compilation apply to this system.

Congress of the U.S.—By the Senate or the House of Representatives of the U.S. or any committee or subcommittee thereof on matters within their jurisdiction requiring disclosure of the files of the system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders and electronic storage media.

RETRIEVABILITY:

By subject's or complainant's name; case name and other case fields.

SAFEGUARDS:

Building where files are stored and maintained employs 24 hour security guards. Records are further stored in areas of controlled access and handled by personnel with a need-to-know in the execution of their official duties. Additionally, access to electronic records is restricted only by authorized persons who are properly screened. This system is password and/or System software uses Primary Key Infrastructure (PKI)/Common Access Card (CAC) protected. Based on user profiles, there are different levels of access. Full access to information maintained in the database is available only to authorized Agency personnel with established official need-to-know. Records are maintained in secure, limited access, or monitored work areas accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Destroy when six years old and shred beyond recognition, as required by current Marine Corps personally identifiable information disposal procedures.

SYSTEM MANAGER(S) AND ADDRESS:

The Commandant of the Marine Corps, Headquarters, U.S. Marine Corps, Washington, DC 20380–1775.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commandant of the Marine Corps (Code IGA), Headquarters, U.S. Marine Corps, Washington, DC 20380–1775.

Written requests for information should contain the full name of the individual and Social Security Number (SSN) or former military service number. The following information will also be helpful in locating some records; military rank and occupational specialty, dates and places of service, and any special correspondence previously received or sent.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commandant of the Marine Corps (Code IGA), Headquarters, U.S. Marine Corps, Washington, DC 20380–1775. However, final determination as to whether any information will be released or made available will be controlled by the system manager.

Written requests for information should contain the full name of the individual and Social Security Number

or former military service number. The following information will also be helpful in locating some records; military rank and occupational specialty, dates and places of service, and any special correspondence previously received or sent.

CONTESTING RECORD PROCEDURES:

The USMC rules for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5E; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information in the system is obtained from the Marine Corps Manpower Management System; the Joint Uniform Military Pay System; Marine Corps Military Personnel Records to include the Service Record Book and Officer Qualification Record; Military Medical Records; Staff elements and subdivisions of Headquarters, U.S. Marine Corps; Marine Corps field commands, organizations and activities; other components of the Department of Defense; Agencies of Federal, State and local government; private citizens provided as character references by the individual; investigations related to disciplinary proceedings; and correspondence of private citizens addressed directly to the Marine Corps or via third parties such as members of Congress and other government agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E9–3371 Filed 2–13–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Public Hearing of the Draft Environmental Impact Statement (DEIS) for the West Coast Basing of the MV–22

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: Pursuant to section (102)(2)(c) of the National Environmental Policy Act (NEPA) of 1969 (NEPA), and regulations implemented by the Council on Environmental Quality (40 CFR Parts 1500–1508), Department of Navy (DoN) NEPA regulations (32 CFR Part 775), and U.S. Marine Corps (USMC) NEPA directives (Marine Corps Order P5090.2A, change 1), DON and USMC have prepared and filed with the U.S. Environmental Protection Agency (EPA) a Draft Environmental Impact Statement (DEIS).

The USMC is initiating the public period and has scheduled three public comment meetings. Federal, state and local agencies and interested parties are encouraged to provide comments in person at any of the public comment meetings or anytime during the public comment period. The USMC and DON will address these comments in the Final Environmental Impact Statement (EIS).

DATES: The DEIS public review period will begin February 15, 2009 and end on March 30, 2009, and public comment meetings will be held from 5 p.m. to 9 p.m. on the dates indicated below, at the following locations:

(1) March 24, 2009, Scripps Miramar Ranch Branch Library, 10301 Scripps Lake Drive, San Diego, CA.

(2) March 25, 2009, Vista Del Mar Middle School 1130 Avienda Talega, San Clemente, CA.

(3) March 26, 2009, Gilla Rid High School, 7151 E 24th St., Yuma, AZ.

ADDRESSES: A copy of the DEIS is available at the project Web site, *http://www.mv22eiswest.net*, and at the physical locations identified at the end of this notice. Comments on the DEIS can be submitted via the project Web site, or submitted in writing to: Naval Facilities Engineering Command Southwest, *Attn:* Homebasing EIS Project Manager, 1220 Pacific Highway, San Diego, California 92132–5190. Comments must be postmarked by March 30, 2009 to be considered in this environmental review process.

FOR FURTHER INFORMATION CONTACT: Homebasing EIS Project Manager, Central Integrated Product Team at telephone: 619–532–4742, by *fax:* 619–532–4160 or write to Naval Facilities Engineering Command Southwest, *Attn:* Homebasing EIS Project Manager, 1220 Pacific Highway, San Diego, California 92132–5190.

SUPPLEMENTARY INFORMATION:

Proposed Action

The proposed action would base up to ten MV–22 squadrons (120 aircraft) on the West Coast and would replace nine helicopter squadrons (114 aircraft) currently authorized for basing on the West Coast. More specifically, the proposed action includes (1) basing up to eight MV–22 squadrons for employment by the Third Marine Aircraft Wing (3D MAW) to provide medium lift capability to I Marine Expeditionary Force (I MEF); (2) basing up to two 4th MAW MV–22 squadrons to provide a West Coast reserve component medium lift capability; (3) construction and/or renovation of airfield facilities necessary to accommodate and maintain the MV–22 squadrons; and (4) conducting MV–22 readiness and training operations and special exercise operations to attain and maintain proficiency in the operational employment of the MV–22. The nine helicopter squadrons to be replaced are currently authorized for basing at Marine Corps Air Station (MCAS) Miramar, MCAS Camp Pendleton, and Edwards Air Force Base.

Purpose and Need

The purpose of the proposed action is to determine the basing location(s) for MV–22 squadrons that would provide medium lift capability to support I MEF and meet West Coast requirements for reserve component medium lift capability, and provide for efficient training through ready access to ranges, training areas and airspace. The MV–22 is the replacement for the current fleet of less-capable, 1960s-era CH–46 medium lift helicopters. The need for the proposed action is to base the USMC's new medium lift aircraft where it can best support the I MEF and 4th MAW missions, while making use of existing facilities to the greatest extent practicable and preventing impacts to combat capability and mission readiness during the transition to meet current and future operational requirements of the USMC. Replacement of CH–46E helicopters with MV–22 aircraft will modernize the USMC medium lift fleet and improve the operational capabilities of the 3D and 4th MAW squadrons.

The proposed MV–22 squadrons would be co-located at a single installation (full basing) or would be split between a maximum of two aviation facilities. Evaluations were made of the maximum and minimum number of squadron options at each air station (e.g., maximum partial basing of eight squadrons and minimum partial basing of two squadrons). These include the following five alternatives.

- The preferred alternative—partial basing at MCAS Miramar (eight squadrons) and MCAS Camp Pendleton (two squadrons).
- Full basing at MCAS Miramar (ten squadrons).
- Partial basing at MCAS Miramar (eight squadrons) and MCAS Yuma (two squadrons).
- Partial basing at MCAS Miramar (two squadrons) and MCAS Yuma (eight squadrons).
- Partial basing at MCAS Yuma (eight squadrons) and MCAS Camp Pendleton (two squadrons).

Under all basing alternatives, MCAS Miramar would lose four existing

squadrons of CH–46Es and MCAS Camp Pendleton would lose three existing squadrons of CH–46Es, along with associated military personnel. Operations at Marine Corps Base (MCB) Camp Pendleton, the Bob Stump Training Range Complex, Marine Corps Air Ground Combat Center (MCAGCC), and various Military Training Routes (MTRs) are included as part of each basing alternative. A sixth alternative, No Action, assumes no aircraft would be replaced, aircraft operations would continue at the current level, and no construction/demolition or personnel changes related to basing the MV–22 aircraft on the West Coast would occur.

Potential impacts were evaluated in the DEIS under all alternatives for the following resources: Airfields and airspace; land use; socioeconomics; community facilities and services; ground traffic and transportation; air quality; noise; infrastructure and utilities; cultural resources; hazardous materials management; topography, geology and soils; water resources; biological resources; aesthetics and visual resources; safety and environmental health; and environmental justice.

The preferred alternative would result in an increase of 48 aircraft and 746 personnel at MCAS Miramar and a reduction of 18 aircraft and 257 personnel at MCAS Camp Pendleton. New support facilities at MCAS Miramar include three new hangar modules, parking apron, four new fueling pits, and five new wash racks. New support facilities at MCAS Camp Pendleton include a new hangar module, modifications to an existing hangar, new wash rack, and new parking apron.

Significant and unavoidable impacts that cannot be mitigated under the preferred alternative include traffic impacts from increased personnel at MCAS Miramar and land use impacts from noise compatibility issues at MCAS Miramar. Potentially significant but mitigable impacts associated with the preferred alternative include seismicity issues associated with construction at both air stations; cultural resources issues at MCAS Camp Pendleton, MCB Camp Pendleton, and the Bob Stump Training Range Complex; and biological resources issues regarding loss of sensitive plant communities, and rare, and federally listed threatened or endangered species from construction at both air stations.

Other alternatives have similar types and levels of impacts, with the most extensive significant and unavoidable impacts occurring from the MCAS Miramar Full Basing Alternative (Alternative 1) related to the loss of a large area supporting vernal pool habitat and associated federally listed species.

Copies of the DEIS can be found on the project Web site, *http://www.mv22eiswest.net* or at the following locations:

(1) San Diego County Public Library Fallbrook Branch 124 S. Mission Road Fallbrook, CA 92028, *telephone:* 760–728–2373,

(2) San Diego Public Library Mira Mesa Branch 8405 New Salem Street San Diego, CA 92126, *telephone:* 858–538–8165,

(3) Yuma County Library Heritage Branch (Main Library) 350 Third Avenue Yuma, AZ 85364 *telephone:* 928–782–1871.

Dated: February 10, 2009.

A. M. Vallandingham,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E9–3260 Filed 2–13–09; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13286–000]

Alaska Village Electric Cooperative; Notice of Preliminary Permit Applications Accepted for Filing and Soliciting Comment, Motions To Intervene, and Competing Applications

February 6, 2009.

On September 16, 2008, Alaska Village Electric Cooperative filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Kogoluktuk River Project, to be located on the Kogoluktuk River, Northwest Arctic Borough, Alaska.

The proposed Kogoluktuk River Project consists of: (1) A proposed 500-foot-long, 250-foot-high earth filled gravity dam, (2) a proposed reservoir having a surface area of 13,440 acres, with a storage capacity of 335,000 acre-feet, (3) a proposed powerhouse containing three generating with a total installed capacity of 4 megawatts, (4) a proposed 7.5-mile-long, 12.4 kilovolt transmission line, and (5) appurtenant facilities. The Alaska Village Electric Cooperative, project would have an average annual generation of 16 gigawatt-hours and be sold to a local utility.

Applicant Contact: Mr. Brent Petrie, Alaska Village Electric Cooperative, 5534 4831 Eagle Street, Anchorage, AK 99503, phone (907) 565–5358.

FERC Contact: Robert Bell, (202) 502–6062.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp*. More information about this project can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–13286) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–3225 Filed 2–13–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13322–000]

City of Cortez, CO; Notice of Conduit Exemption Application Accepted for Filing and Soliciting Comment, Motions To Intervene, and Competing Applications

February 6, 2009.

On November 5, 2008, City of Cortez, Colorado (Cortez), filed an application pursuant to 16 U.S.C. 791a–825r of the Federal Power Act, for conduit exemption of the Cortez Micro Hydroelectric Project, to be located on the raw water supply conduit from the Dolores Canal to the Cortez's water treatment plant in Montezuma County, Colorado.

The proposed Cortez Micro Hydroelectric Project consists of: (1) A proposed powerhouse containing one generating unit having an installed capacity of 240 kilowatts, and (2) appurtenant facilities. The City of

Cortez, Colorado, estimates the project would have an average annual generation of 1,400 megawatt-hours that would be sold to a local utility.

Applicant Contact: Mr. Jack Nickerson, Public Works Director, City of Cortez, Colorado, Service Center, 110 W. Progress Circle, Cortez, CO 81321, phone (970) 565–7320.

FERC Contact: Robert Bell, (202) 502–6062.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 45 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp*. More information about this project can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–13322) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–3226 Filed 2–13–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13330–000]

City of Quincy, Illinois; Notice of Competing Preliminary Permit Application Accepted for Filing and Soliciting Comments and Motions To Intervene

February 10, 2009.

On November 12, 2009, the City of Quincy, Illinois filed an application, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Mississippi River Lock & Dam 25 Project to be located on the Mississippi River in Calhoun County, Illinois and Lincoln County, Missouri. The proposed project would utilize the existing U.S. Army Corps of Engineers Lock & Dam 25.

The proposed project would consist of: (1) A powerhouse containing 30 turbine/generator units with a total installed capacity of 15 MW; (2) a 3.1 or 6.8 mile long, 34.5 kV transmission line and (3) appurtenant facilities. The annual production would be 82.1 GWh, which would be sold to a local utility.

Applicant Contact: Kenneth Cantrell, Director of Administrative Services, 730 Maine Street, Quincy, IL 62301 (217) 228–4500

FERC Contact: Steven Sachs (202) 502–8666

Competing Application: This application competes with Project No. 13320–000 filed November 3, 2008. Competing applications must be filed on or before April 6, 2009.

Deadline for filing comments, motions to intervene: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project can be viewed or printed on the ''eLibrary'' ling of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13330) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–3341 Filed 2–13–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP09–54–000; PF08–9–000]

Ruby Pipeline, L.L.C.; Notice of Application

February 9, 2009.

Take notice that on January 27, 2009, Ruby Pipeline, L.L.C. (Ruby) Post Office Box 1087, Colorado Springs, Colorado 80944, filed in the above referenced docket an application pursuant to section 7(c) of the Natural Gas Act (NGA) and Parts 157 and 284 of the Commission's regulations, for an order granting a certificate of public convenience and necessity authorizing the construction and operation of a new interstate natural gas pipeline system extending from Opal, Wyoming to Malin, Oregon and blanket transportation and construction certificates pursuant to Parts 284 and 157 of the Commission's regulations, respectively, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@gerc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Specifically, Ruby proposes to construct and operate: (i) A new, 675.2 mile, 42-inch diameter pipeline extending westward from Opal, Wyoming through the states of Utah and Nevada to a terminus at the Malin Hub in Oregon; (ii) a 2.6 mile, 42-inch diameter lateral extending from the Malin Hub to the Oregon/California border; (iii) the 69,000 horsepower Roberson Creek Compressor Station located in Lincoln County, Wyoming; (iv) the 28,668 horsepower Wildcat Hills Compressor Station located in Box Elder County, Utah; (v) the 39,662 horsepower Wieland Flat Compressor Station located in Elko County, Nevada; (vi) the 19,831 horsepower Desert Valley Compressor Station located in Humboldt County, Nevada; and (vii) various receipt points located in Lincoln County, Wyoming and various bi-directional delivery points located in Humboldt County, Nevada and Klamath County, Oregon. Ruby's proposed pipeline would be capable of transporting up to 1,500,000 MMBtu/d of natural gas from the Rocky Mountains to the Malin Hub. Ruby estimates that the facilities will cost approximately $2.96 billion. Ruby would provide open access firm and interruptible transportation on the pipeline pursuant to its Pro Forma Tariff for which it seeks approval.

Any questions concerning this application may be directed to Richard Derryberry, Director, Regulatory Affairs, Ruby Pipeline, L.L.C., P.O. Box 1087,

Colorado Springs, Colorado 80944 at (719) 520–3782 or by fax at (719) 667–7534 or Craig V. Richardson, Vice President and General Counsel, Ruby Pipeline, L.L.C., P.O. Box 1087, Colorado Springs, Colorado 80944 at (719) 520–4370 or by fax at (719) 520–4898.

On January 31, 2008, the Commission staff granted Ruby's request to utilize the FERC Pre-Filing Process and assigned Docket No. PF08–9–000 to staff activities involved in the Ruby Project. Now as of the filing of Ruby's application on January 27, 2009, the Pre-Filing Process for this project has ended. From this time forward, this proceeding will be conducted in Docket No. CP09–54–000, as noted in the caption of this Notice.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice, the Commission staff will either: complete the environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: March 2, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–3222 Filed 2–13–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 382–076]

Southern California Edison Company; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

February 6, 2009.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment to Boating Flow Augmentation Plan.

b. *Project No.:* 382–076.

c. *Date Filed:* January 16, 2009.

d. *Applicant:* Southern California Edison Company.

e. *Name of Project:* Borel Hydroelectric Project.

f. *Location:* The proposal would be located on the Kern River, in Kern County, California. The project occupies almost 189 acres of Federal lands; 159.24 acres are within the Sequoia National Forest and administered by the U.S. Forest Service, and 29.47 acres are administered by the Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Candace Irelan, Southern California Edison Co., 300 No. Lone Hill Ave, San Dimas, CA 91773; (909) 394–8714; *Candace.irelan@sce.com.*

i. *FERC Contact:* Gina Krump, Telephone (202) 502–6704, and *e-mail: Gina.Krump@ferc.gov.*

j. *Deadline for Filing Comments, Motions to Intervene, and Protest:* March 6, 2009.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a

particular resource agency, they must also serve a copy of the document on that resource agency. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. *Description of Request:* Southern California Edison Company (SCE) is requesting to amend article 402 of the project license. Article 402 requires SCE to develop a plan for boating flow augmentation within the Borel Project diverted reach, enter into an agreement with the U.S. Army Corps of Engineers (COE) and the Kern River Watermaster to implement the plan, and consult with interested parties on the plan. In lieu of the plan, SCE proposes to provide the U.S. Forest Service (FS) funding for improvements to recreational facilities located at the Democrat Dam Boating Take-out, located outside the project boundary on FS lands. SCE proposes to construct an improved boat exit ramp for commercial boaters, a new take-out ramp for private boaters, and improvements to the parking area adjacent to the take-out ramps. Among others, SCE consulted with the FS, COE, U.S. Fish and Wildlife Service, and state and local agencies on its application.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call (866) 208–3372 or e-mail *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See,* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–3227 Filed 2–13–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 2

February 5, 2009.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC09–36–000; EC09–37–000; EC09–38–000; EC09–39–000; EC09–40–000; EC09–41–000; EC09–42–000; EC09–43–000; EC09–44–000; EC09–45–000; EC09–46–000.

Applicants: EDF Development, Inc., Constellation Energy Group, Inc., Handsome Lake Energy, LLC.

Description: Clarification of Applications of EDF Development, Inc.

Filed Date: 02/04/2009.

Accession Number: 20090204–5096.

Comment Date: 5 p.m. Eastern Time on Friday, February 13, 2009.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER99–1435–017.

Applicants: Avista Corporation.

Description: Avista Corporation submits Revised Sheet 5 *et al.* to FERC Electric Tariff, Seventh Revised Volume 9.

Filed Date: 01/29/2009.

Accession Number: 20090202–0543.

Comment Date: 5 p.m. Eastern Time on Thursday, February 19, 2009.

Docket Numbers: ER01–989–007.

Applicants: Green Mountain Power Corporation.

Description: Non-Material Change-in-Status Report of Green Mountain Power Corporation.

Filed Date: 02/03/2009.

Accession Number: 20090203–5152.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 24, 2009.

Docket Numbers: ER01–2317–007; ER05–1469–001.

Applicants: DTE East China, LLC, Metro Energy, LLC.

Description: DTE East China, LLC *et al.* submits First Revised Sheet 1 *et al.* to FERC Electric Tariff, Original Volume 4.

Filed Date: 01/29/2009.

Accession Number: 20090203–0170.

Comment Date: 5 p.m. Eastern Time on Thursday, February 19, 2009.

Docket Numbers: ER02–2536–006; ER04–925–020.

Applicants: Bank of America, N.A., Merrill Lynch Commodities, Inc.

Description: Bank of America, N.A. and Merrill Lynch Commodities, Inc. submits Joint Notification of Non-Material Change in Status and Tariff Revisions.

Filed Date: 01/29/2009.

Accession Number: 20090203–0002.

Comment Date: 5 p.m. Eastern Time on Thursday, February 19, 2009.

Docket Numbers: ER04–805–009.

Applicants: Wabash Valley Power Association, Inc.

Description: Supplement to December 29, 2008 Filing of Updated Market Power Analysis of Wabash Valley Power Association.

Filed Date: 02/03/2009.

Accession Number: 20090203–5016.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 24, 2009.

Docket Numbers: ER05–6–108; EL04–135–112; EL02–111–129; EL03–212–125.

Applicants: Ameren Services Company, Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. *et al.* submits proposed revisions to the Joint Operating Agreement to comply with the Commission's 11/21/05 Order.

Filed Date: 01/28/2009.

Accession Number: 20090129–0225.

Comment Date: 5 p.m. Eastern Time on Wednesday, February 18, 2009.

Docket Numbers: ER05–717–010; ER04–374–011; ER05–721–010; ER06–1334–007; ER06–230–007; ER07–277–005; ER07–810–005; ER08–1172–004; ER08–237–004; ER99–2341–013.

Applicants: Spring Canyon Energy LLC; Judith Gap Energy LLC, Invenergy TN LLC; Hardee Power Partners Limited, Wolverine Creek Energy LLC, Spindle Hill Energy LLC; Invenergy Cannon Falls LLC; Grays Harbor Energy LLC; Forward Energy LLC, Grand Ridge Energy LLC.

Description: Spring Canyon Energy LLC *et al.* submits a notice of change in status under market-based rate authority.

Filed Date: 01/29/2009.

Accession Number: 20090203–0025.

Comment Date: 5 p.m. Eastern Time on Thursday, February 19, 2009.

Docket Numbers: ER06–275–004.

Applicants: Northeast Utilities Service Company.

Description: Northeast Utilities Service Company submits report on the status of NU's four major transmission project in Southwest Connecticut and accounting information on the amount of construction work in progress.

Filed Date: 02/02/2009.

Accession Number: 20090203–0172.

Comment Date: 5 p.m. Eastern Time on Monday, February 23, 2009.

Docket Numbers: ER06–615–002.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corporation's Joint Quarterly Seams Report for the Fourth Quarter 2008.

Filed Date: 01/29/2009.

Accession Number: 20090129–5131.

Comment Date: 5 p.m. Eastern Time on Thursday, February 19, 2009.

Docket Numbers: ER06–754–006.

Applicants: Auburndale Power Partners, LP.

Description: Amendment to Updated Market Power Analysis of Auburndale Power Partners, LP.

Filed Date: 02/04/2009.

Accession Number: 20090204–5101.

Comment Date: 5 p.m. Eastern Time on Wednesday, February 25, 2009.

Docket Numbers: ER07–265–009; ER08–100–008; ER07–1215–008.

Applicants: Sempra Energy Trading LLC, Sempra Energy Solutions LLC, The Royal Bank of Scotland PLC.

Description: Sempra Energy Trading LLC *et al.* submits notice of change in status in compliance with the reporting requirements set forth in Section 35.42 of the Commission's regulations and Order 652.

Filed Date: 01/29/2009.

Accession Number: 20090203–0024.

Comment Date: 5 p.m. Eastern Time on Thursday, February 19, 2009.

Docket Numbers: ER07–1137–003.

Applicants: Lockhart Power Company.

Description: Notice of Change in Status of Lockhart Power Company.

Filed Date: 02/03/2009.

Accession Number: 20090203–5021.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 24, 2009.

Docket Numbers: ER07–1223–001; ER07–1202–002; ER07–1208–002; ER07–1222–001; ER07–1246–002.

Applicants: Cow Branch Wind Power, LLC, CR Clearing, LLC, Wind Capital Holdings, LLC, Harvest WindFarm, LLC, JD WIND 4, LLC.

Description: John Deere Renewables, LLC submits Supplemental Information to the 12/23/08 Request for Classification as Category 1 Seller and Compliance Filings.

Filed Date: 02/04/2009.

Accession Number: 20090204–5027.

Comment Date: 5 p.m. Eastern Time on Wednesday, February 25, 2009.

Docket Numbers: ER08–125–005.

Applicants: Luminant Energy Company LLC.

Description: Luminant Energy Company LLC submits supplemental information to its Petition for Determination of Status as a Category I Seller Pursuant to Order 697 filed on 6/30/08.

Filed Date: 01/29/2009.

Accession Number: 20090202–0692.

Comment Date: 5 p.m. Eastern Time on Thursday, February 19, 2009.

Docket Numbers: ER08–649–007; ER07–758–009.

Applicants: EFS Parlin Holdings, LLC; Birchwood Power Partners, LP.

Description: EFS Parlin Holdings, LLC and Inland Empire Energy Center, LLC submits Substitute Original Sheet 1 and 2 to FERC Gas Tariff, First Revised Volume 1, in compliance with FERC's Order 697–A.

Filed Date: 01/28/2009.

Accession Number: 20090202–0494.

Comment Date: 5 p.m. Eastern Time on Thursday, February 12, 2009.

Docket Numbers: ER08–1285–001.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits revisions to its Open Access Transmission and Energy Markets Tariff, *et al.* in compliance with the Commission's 1/2/09 Order.

Filed Date: 02/02/2009.

Accession Number: 20090203–0168.

Comment Date: 5 p.m. Eastern Time on Monday, February 23, 2009.

Docket Numbers: ER09–207–001.

Applicants: NSTAR Electric Company.

Description: NSTAR Electric Company submits modification to the Transfer Agreement NSTAR and HQ Energy Services Inc.

Filed Date: 01/29/2009.

Accession Number: 20090202–0541.

Comment Date: 5 p.m. Eastern Time on Thursday, February 19, 2009.

Docket Numbers: ER09–438–000.

Applicants: Discount Power, Inc.

Description: Discount Power, Inc submits the Petition for Acceptance of Initial Tariff, Waivers and Blanket Authority, submitted by Discount Power, Inc.

Filed Date: 12/15/2008.

Accession Number: 20081223–0232.

Comment Date: 5 p.m. Eastern Time on Wednesday, February 25, 2009.

Docket Numbers: ER09–455–000.

Applicants: Portland General Electric Company.

Description: Portland General Electric Company submits supplement to the December 22, 2008 filing of First Revised Rate Schedule FERC 49, Long Term Power Sale Agreement with San Diego Gas & Electric Co.

Filed Date: 01/29/2009.

Accession Number: 20090202–0491.

Comment Date: 5 p.m. Eastern Time on Thursday, February 19, 2009.

Docket Numbers: ER09–585–000.

Applicants: PJM Interconnection LLC.

Description: PJM Interconnection, LLC submits amendments to the PJM Open Access Transmission Tariff and to the Amended and Restated Operating Agreement, to become effective 3/1/09.

Filed Date: 01/28/2009.

Accession Number: 20090130–0165.

Comment Date: 5 p.m. Eastern Time on Wednesday, February 18, 2009.

Docket Numbers: ER09–589–000.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corporation submits amendment to the credit policy provisions of the CAISO Tariff implementing the Market Redesign and Technology Upgrade project.

Filed Date: 01/29/2009.

Accession Number: 20090202–0451.

Comment Date: 5 p.m. Eastern Time on Thursday, February 19, 2009.

Docket Numbers: ER09–590–000.

Applicants: Trans-Allegheny Interstate Line Company.

Description: Trans Allegheny Interstate Line Company submits request for authorization to implement an incentive return on equity for the replacement of autotransformers and the upgrade of associated equipment at the Kammer Substation.

Filed Date: 01/29/2009.
Accession Number: 20090202–0450.
Comment Date: 5 p.m. Eastern Time on Thursday, February 19, 2009.

Docket Numbers: ER09–592–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc. submits a Notice of Cancellation of the Seams Operating Agreement between Midwest Independent Transmission System Operator, Inc and MAPPCOR.
Filed Date: 01/29/2009.
Accession Number: 20090202–0540.
Comment Date: 5 p.m. Eastern Time on Thursday, February 19, 2009.

Docket Numbers: ER09–593–000.
Applicants: PJM Interconnection, LLC.
Description: PJM Interconnection, LLC submits four executed interim interconnection service agreements.
Filed Date: 01/29/2009.
Accession Number: 20090202–0539.
Comment Date: 5 p.m. Eastern Time on Thursday, February 19, 2009.

Docket Numbers: ER09–602–000.
Applicants: Celeren Corporation.
Description: Celeran Corporation submits notice of cancellation of FERC Electric Tariff, effective 10/14/08.
Filed Date: 01/29/2009.
Accession Number: 20090203–0004.
Comment Date: 5 p.m. Eastern Time on Thursday, February 19, 2009.

Docket Numbers: ER09–603–000.
Applicants: American Transmission Systems, Incorporation.
Description: The Toledo Edison Company submits Wholesale Distribution Service Agreement with the Village of Holiday City, Ohio.
Filed Date: 01/29/2009.
Accession Number: 20090203–0005.
Comment Date: 5 p.m. Eastern Time on Thursday, February 19, 2009.

Docket Numbers: ER09–632–000.
Applicants: Connecticut Light & Power Company.
Description: Connecticut Light and Power Company submits notice cancelling the First Revised Service Agreement 104 by and between CL&P and Lake Road Trust.
Filed Date: 01/29/2009.
Accession Number: 20090203–0148.
Comment Date: 5 p.m. Eastern Time on Thursday, February 19, 2009.

Docket Numbers: ER09–633–000.
Applicants: SWG Colorado, LLC.
Description: SWG Colorado, LLC submits Notice of Succession notifying FERC of a corporate name change, and to adopt, as their own in every respect, the FERC Electric Tariff of Black Hills Colorado, LLC.
Filed Date: 02/02/2009.
Accession Number: 20090203–0147.
Comment Date: 5 p.m. Eastern Time on Monday, February 23, 2009.

Docket Numbers: ER09–634–000.
Applicants: AIG Energy Inc.
Description: AIG Energy Inc submits an notice of cancellation of AIGEI's First Revised Rate Schedule FERC 1.
Filed Date: 02/03/2009.
Accession Number: 20090203–0146.
Comment Date: 5 p.m. Eastern Time on Tuesday, February 24, 2009.

Docket Numbers: ER09–635–000.
Applicants: Southern Operating Companies.
Description: Southern Companies submits an amendment to Southern Operating Companies, Open Access Transmission Tariff.
Filed Date: 02/02/2009.
Accession Number: 20090203–0145.
Comment Date: 5 p.m. Eastern Time on Monday, February 23, 2009.

Docket Numbers: ER09–636–000.
Applicants: Entergy Services, Inc.
Description: Entergy Arkansas, Inc *et al.* submits Notice of Cancellation of Third Revised rate Schedule FERC 262 etc pursuant order 614.
Filed Date: 02/02/2009.
Accession Number: 20090203–0144.
Comment Date: 5 p.m. Eastern Time on Thursday, March 19, 2009.

Docket Numbers: ER09–637–000.
Applicants: Carolina Power & Light Company, Florida Power Corporation.
Description: Progress Energy, Inc submits proposed modifications to the Joint Open Access Transmission Tariff of CP& L and FPC pursuant to Order 676–C.
Filed Date: 01/29/2009.
Accession Number: 20090203–0175.
Comment Date: 5 p.m. Eastern Time on Thursday, February 19, 2009.

Docket Numbers: ER09–638–000.
Applicants: Xcel Energy Operating Companies.
Description: Xcel Energy Operating Companies submits Eighth Revised Sheet 48–56 *et al.* to FERC Electric Tariff, Original Volume 3.
Filed Date: 02/02/2009.
Accession Number: 20090203–0174.
Comment Date: 5 p.m. Eastern Time on Monday, February 23, 2009.

Docket Numbers: ER09–639–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc. submits executed Service Agreement for Network Integration Transmission Service with Grand River Dam Authority as Network Customer, *et al.*
Filed Date: 02/02/2009.
Accession Number: 20090203–0173.
Comment Date: 5 p.m. Eastern Time on Monday, February 23, 2009.

Docket Numbers: ER09–641–000.
Applicants: Southern Companies, PowerSouth Energy Cooperative.
Description: Southern Companies submits a network integration transmission service agreement and the associated network operating agreement by and between PowerSouth Energy Cooperative and Southern Companies.
Filed Date: 02/02/2009.
Accession Number: 20090203–0164.
Comment Date: 5 p.m. Eastern Time on Monday, February 23, 2009.

Docket Numbers: ER09–643–000.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc requests waiver of certain North American Energy Standards Board Wholesale Electric Quadrant Standards adopted by the Commission in Order 676–C.
Filed Date: 02/02/2009.
Accession Number: 20090203–0177.
Comment Date: 5 p.m. Eastern Time on Monday, February 23, 2009.

Docket Numbers: ER09–644–000.
Applicants: South Carolina Electric & Gas Company.
Description: South Carolina Electric & Gas Company submits First Revised Sheet 3 to FERC Electric Tariff, Fourth Revised Volume 5, to comply with Commission Order 676–C.
Filed Date: 02/02/2009.
Accession Number: 20090203–0176.
Comment Date: 5 p.m. Eastern Time on Monday, February 23, 2009.

Docket Numbers: ER09–645–000.
Applicants: American Electric Power Service Corporation.
Description: American Electric Power Service submits amendments to the AEP West Operating Agreement etc.
Filed Date: 02/02/2009.
Accession Number: 20090203–0166.
Comment Date: 5 p.m. Eastern Time on Monday, February 23, 2009.

Docket Numbers: ER09–650–000.
Applicants: PJM Interconnection, LLC.
Description: PJM Interconnection, LLC submits revised tariff sheets of the PJM Open Access Transmission Tariff and the Amended and Restated Operating Agreement of PJM Interconnection, LLC.
Filed Date: 02/03/2009.
Accession Number: 20090204–0088.
Comment Date: 5 p.m. Eastern Time on Tuesday, February 24, 2009.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES09–16–000.
Applicants: The Detroit Edison Company.
Description: Application of The Detroit Edison Company for Authorization to Issue Securities.
Filed Date: 02/02/2009.
Accession Number: 20090202–5169.
Comment Date: 5 p.m. Eastern Time on Monday, February 23, 2009.

Docket Numbers: ES09–17–000.
Applicants: ITC Great Plains, LLC.
Description: Application of ITC Great Plains, LLC for Authorization to Issue Securities Under Section 204 of the Federal Power Act.
Filed Date: 02/04/2009.
Accession Number: 20090204–5052.
Comment Date: 5 p.m. Eastern Time on Wednesday, February 25, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,
Deputy Secretary.
[FR Doc. E9–3246 Filed 2–13–09; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

February 05, 2009.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER08–1252–002.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc submits revisions to its Open Access Transmission, Energy and Operating Reserve Markets Tariff in compliance with the Commission's 12/29/08 Order.
Filed Date: 01/30/2009.
Accession Number: 20090203–0169.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–92–001.
Applicants: Southern Company Services, Inc.
Description: Southern Company Services, Inc submits First Revised Sheet to FERC Electric Tariff, Original Volume 1 in compliance with the Commission's 12/31/08 Order.
Filed Date: 01/30/2009.
Accession Number: 20090203–0167.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–226–001.
Applicants: ALLETE, Inc.
Description: ALLETE, Inc responds to FERC's 12/31/08 deficiency letter.
Filed Date: 01/30/2009.
Accession Number: 20090203–0201.
Comment Date: 5 p.m. Eastern Time on Thursday, February 12, 2009.

Docket Numbers: ER09–591–000.
Applicants: Nalcor Energy.
Description: Petition of Nalcor Energy for order accepting market-based rate tariff for filing, granting waivers and blanket approvals.
Filed Date: 01/30/2009.
Accession Number: 20090203–0029.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–594–000.
Applicants: Coaltrain Energy LP.
Description: Coaltrain Energy LP submits Application for Order Accepting Initial Tariff and Granting Category 1 Status and Certain Waivers and Blanket Approvals etc.
Filed Date: 01/30/2009.
Accession Number: 20090202–0619.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–595–000.
Applicants: Gotham Energy Marketing LP.
Description: Gotham Energy Marketing LP submits an Application of Gotham for Order Accepting Initial Tariff and Granting Category 1 Status and Certain Waivers and Blanket Approvals etc.
Filed Date: 01/30/2009.
Accession Number: 20090202–0617.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–596–000.
Applicants: Silverado Energy LP.
Description: Silverado Energy, LP submits an application for order accepting initial tariffs and granting Category 1 Status and certain waivers and blanket approvals.
Filed Date: 01/30/2009.
Accession Number: 20090202–0615.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–597–000.
Applicants: Rockpile Energy LP.
Description: Rockpile Energy LP submits Application for Order Accepting Initial Tariff and Granting Category 1 Status and certain Waivers and Blanket Approvals.
Filed Date: 01/30/2009.
Accession Number: 20090202–0613.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–598–000.
Applicants: Big Bog Energy LP.
Description: Big Bog Energy, LP submits an application for order accepting initial tariff and granting Category 1 Status and certain waivers and blanket approvals.
Filed Date: 01/30/2009.
Accession Number: 20090202–0611.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–600–000.
Applicants: Trans-Allegheny Interstate Line Company.
Description: Trans-Allegheny Interstate Line Company submits proposed revisions to First Revised Sheet 3141.02 *et al.* of the Open Access Transmission Tariff of PJM

Interconnection, LLC, FERC Electric Tariff, Sixth Revised Volume 1.
Filed Date: 01/30/2009.
Accession Number: 20090203–0003.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–601–000.
Applicants: San Diego Gas & Electric Company.
Description: San Diego Gas & Electric Company submits its application for the approval of an increase in the Fixed Change Rate etc.
Filed Date: 01/30/2009.
Accession Number: 20090203–0121.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–604–000.
Applicants: UNS Electric, Inc.
Description: UNS Electric, Inc submits revisions to its Open Access Transmission Tariff to incorporate by reference standards promulgated by the North American Energy Standards Board, and request waiver of one NAESB standard etc.
Filed Date: 01/30/2009.
Accession Number: 20090203–0006.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–605–000.
Applicants: Public Service Company of New Mexico.
Description: Public Service Company of New Mexico submits revisions to its Second Revised Volume 6 of their Open Access Transmission Tariff pursuant to FERC's 7/21/08 Order and Request for Waiver etc.
Filed Date: 01/30/2009.
Accession Number: 20090203–0007.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–606–000.
Applicants: Duke Energy Carolinas, LLC.
Description: Duke Energy Carolinas, LLC submits seven Network Integration Transmission Service Agreements for Network Integration Transmission Service with the City of Concord, NC *et al.*
Filed Date: 01/30/2009.
Accession Number: 20090203–0116.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–607–000.
Applicants: Florida Power & Light Co.
Description: Florida Power & Light Company submits Fourth Revised Tariff Sheet 505 and Second Revised Sheet 506 to its Open Access Transmission Tariff pursuant to Order 676–C.
Filed Date: 01/30/2009.
Accession Number: 20090203–0008.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–608–000.
Applicants: Tucson Electric Power Company.
Description: Tucson Electric Power Company submits revisions to its Open Access Transmission Tariff and Request for Waiver pursuant to the Commission's 7/21/08 Order.
Filed Date: 01/30/2009.
Accession Number: 20090203–0010.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–609–000.
Applicants: Central Power & Lime LLC.
Description: Central Power & Lime LLC submits a Notice of Succession.
Filed Date: 01/30/2009.
Accession Number: 20090203–0028.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–610–000; ER09–611–000.
Applicants: CalPeak Power—El Cajon, LLC; CalPeak Power—Border LLC.
Description: CalPeak Entities submits modifications to the Reliability Must-Run Service Agreement with the California Independent System Operator Corp under ER09–610 *et al.*
Filed Date: 01/30/2009.
Accession Number: 20090203–0027.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–612–000.
Applicants: Entergy Services, Inc.
Description: Entergy Arkansas Inc and Union Electric Co submits a joint notice of termination.
Filed Date: 01/30/2009.
Accession Number: 20090203–0026.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–613–000.
Applicants: Cross-Sound Cable Company, LLC.
Description: Cross-Sound Cable Co, LLC submits an Order No. 676–C compliance filing and request for waiver of certain WEQ Standards.
Filed Date: 01/30/2009.
Accession Number: 20090203–0023.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–616–000; ER09–617–000; ER09–618–000.
Applicants: Susquehanna Electric Company; Susquehanna Power Company; PECO Energy Power Company.
Description: Exelon Generation Company, LLC on behalf of Susquehanna Electric Co et al. submits Notice of Cancellation of Rate Schedule FERC 1, 2, and 4 *et al.*, effective 1/1/09.
Filed Date: 01/30/2009.
Accession Number: 20090203–0112.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–619–000.
Applicants: Xcel Energy Services Inc.
Description: Xcel Energy Services Inc submits amended rate sheets to the Market Interface Integration Services Agreement with Tatanka Wind Power LLC, to be effective 2/1/09.
Filed Date: 01/30/2009.
Accession Number: 20090203–0113.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–620–000.
Applicants: New England Power Pool.
Description: New England Power Pool submits counterpart signature pages of the New England Power Pool Agreement dated as of 9/1/71.
Filed Date: 01/30/2009.
Accession Number: 20090203–0111.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–621–000; ER09–622–000; ER07–1119–006.
Applicants: TAQA Gen X LLC.
Description: TAQA Gen X LLC submits notice of change in status in connection with the recent acquisition by TAQA Gen X LP from BE Investment Holding Inc of 100% of indirect ownership interests in TGX LLC.
Filed Date: 01/30/2009.
Accession Number: 20090203–0109.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–623–000.
Applicants: Pacific Gas and Electric Company.
Description: Pacific Gas and Electric Company submits unexecuted modifications to Service Agreement 42 for Network Integration Transmission Service with San Francisco Bay Area Rapid Transit District etc.
Filed Date: 01/30/2009.
Accession Number: 20090203–0110.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–624–000.
Applicants: Pacific Gas and Electric Company.
Description: Pacific Gas and Electric Company submits modifications to PG&E's Grid Management Charge Pass Through Tariff.
Filed Date: 01/30/2009.
Accession Number: 20090203–0114.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–625–000.
Applicants: Pacific Gas and Electric Company.
Description: Pacific Gas and Electric Co submits Notice of Cancellation of Rate Schedule 116, the Interconnection Agreement with Modesto Irrigation District.
Filed Date: 01/30/2009.
Accession Number: 20090203–0115.

Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–626–000.
Applicants: Participating Transmission Owners.
Description: Participating Transmission Owners *et al.* request waiver of certain business practice standards in Version 001 adopted by the Wholesale Electric Quadrant of the North American Energy Standards Board etc pursuant to Order 676–C.
Filed Date: 01/30/2009.
Accession Number: 20090203–0142.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–627–000.
Applicants: Niagara Mohawk Power Corporation.
Description: Niagara Mohawk Power Corporation *et al.* submits an Energy Delivery Agreement with Salamanca Board of Public Utilities executed in August 2002.
Filed Date: 01/30/2009.
Accession Number: 20090203–0141.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–628–000.
Applicants: National Grid Generation LLC.
Description: National Grid Generation LLC submits the Section 205 Rate Filing re revisions to its FERC Electric Rate Schedule No. 1.
Filed Date: 01/30/2009.
Accession Number: 20090203–0264.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–629–000.
Applicants: Dynegy Marketing and Trade, LLC.
Description: Dynegy Marketing and Trade, LLC submits Notice of Succession to notify the Commission of a corporate name change and revisions to their market-based rate tariff to reflect the name change.
Filed Date: 01/30/2009.
Accession Number: 20090203–0143.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–630–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company submits a revised rate sheet to the Amended and Restated Mandalay Generating Station Radial Lines Agreement with Reliant Energy Mandalay, Inc.
Filed Date: 01/30/2009.
Accession Number: 20090203–0150.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–631–000.
Applicants: PJM Interconnection L.L.C.
Description: PJM Interconnection, LLC submits revisions to PJM's Open Access Transmission Tariff etc.
Filed Date: 01/30/2009.
Accession Number: 20090203–0149.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–640–000.
Applicants: ISO New England Inc. & New England Power.
Description: ISO New England Inc *et al.* submits transmittal letter and related materials, which identify the Installed Capacity Requirement, etc.
Filed Date: 01/30/2009.
Accession Number: 20090203–0165.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–642–000.
Applicants: Niagara Mohawk Power Corporation.
Description: Niagara Mohawk Power Corporation *et al.* submits an amendment dated 6/11/09 between Niagara Mohawk and Huntley Power LLC which amends an interconnection agreement between the same parties.
Filed Date: 01/30/2009.
Accession Number: 20090203–0163.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER09–651–000.
Applicants: El Paso Electric Company.
Description: El Paso Electric Company, Order No. 676–C Compliance Filing.
Filed Date: 01/30/2009.
Accession Number: 20090130–5156.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA08–69–003.
Applicants: Tucson Electric Power Company.
Description: Tucson Electric Power Company submits Third Revised Sheet 78 et al. to FERC Electric Tariff, Fourth Revised Volume 2 to its Open Access Transmission in compliance with FERC's 12/2/08 Letter Order under OA08–69.
Filed Date: 01/30/2009.
Accession Number: 20090203–0009.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,
Deputy Secretary.
[FR Doc. E9–3247 Filed 2–13–09; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

February 9, 2009.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP09–70–003.
Applicants: Texas Eastern Transmission LP.

Description: Texas Easter Transmission, LP submits Sub Original Sheet No. 531A to FERC Gas Tariff, Seventh Revised Volume No. 1.
Filed Date: 02/04/2009.
Accession Number: 20090205–0325.
Comment Date: 5 p.m. Eastern Time on Tuesday, February 17, 2009.

Docket Numbers: RP09–72–003.
Applicants: Algonquin Gas Transmission, LLC.
Description: Algonquin Gas Transmission, LLC submits Second Sub Original Sheet No. 549A to FERC Gas Tariff, Fifth Revised Volume No. 1.
Filed Date: 02/04/2009.
Accession Number: 20090205–0326.
Comment Date: 5 p.m. Eastern Time on Tuesday, February 17, 2009.

Docket Numbers: RP09–342–000.
Applicants: WestGas InterState, Inc.
Description: WestGas InterState, Inc submits Second Revised Sheet No. 65 *et al.* to FERC Gas Tariff, First Revised Volume No. 1, to be effective 3/6/09.
Filed Date: 02/04/2009.
Accession Number: 20090205–0324.
Comment Date: 5 p.m. Eastern Time on Tuesday, February 17, 2009.

Docket Numbers: RP09–343–000.
Applicants: White River Hub Project.
Description: White River Hub, LLC submits Second Revised Sheet 7 to Original Volume 1, to be effective 3/1/09.
Filed Date: 02/05/2009.
Accession Number: 20090206–0229.
Comment Date: 5 p.m. Eastern Time on Tuesday, February 17, 2009.

Docket Numbers: RP09–344–000.
Applicants: Northern Natural Gas Company.
Description: Northern Natural Gas Company submits Fourth Revised Sheet 67 *et al.* to FERC Gas Tariff, Fifth Revised Volume 1, to be effective 3/8/09.
Filed Date: 02/05/2009.
Accession Number: 20090206–0230.
Comment Date: 5 p.m. Eastern Time on Tuesday, February 17, 2009.

Docket Numbers: RP09–345–000.
Applicants: Southeast Supply Header, LLC.
Description: Southeast Supply Header, LLC submits First Revised Sheet 280 *et al.* to FERC Gas Tariff, Original Volume 1, to be effective 3/11/09.
Filed Date: 02/05/2009.
Accession Number: 20090206–0231.
Comment Date: 5 p.m. Eastern Time on Tuesday, February 17, 2009.

Docket Numbers: RP09–346–000.
Applicants: Texas Eastern Transmission LP.
Description: Texas Eastern Transmission, LP submits Fourth Revised Sheet 509 *et al.* to FERC Gas Tariff, Seventh Revised Volume 1, to be effective 3/11/09.
Filed Date: 02/05/2009.
Accession Number: 20090206–0232.
Comment Date: 5 p.m. Eastern Time on Tuesday, February 17, 2009.

Docket Numbers: RP09–347–000.
Applicants: East Tennessee Natural Gas, LLC.
Description: East Tennessee Natural Gas, LLC submits Third Revised Sheet 375A *et al.* to FERC Gas Tariff, Third Revised Volume 1, to be effective 3/11/09.
Filed Date: 02/05/2009.
Accession Number: 20090206–0233.
Comment Date: 5 p.m. Eastern Time on Tuesday, February 17, 2009.

Docket Numbers: RP09–348–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: Algonquin Gas Transmission, LLC submits Fifth Revised Sheet 607 *et al.* to FERC Gas Tariff, Fifth Revised Volume 1, to be effective 3/11/09.
Filed Date: 02/05/2009.
Accession Number: 20090206–0234.
Comment Date: 5 p.m. Eastern Time on Tuesday, February 17, 2009.

Docket Numbers: RP09–349–000.
Applicants: Saltsville Gas Storage Company LLC.
Description: Saltsville Gas Storage Company, LLC submits Third Revised Sheet 151 *et al.* to FERC Gas Tariff, Original Volume 1, to be effective 3/11/09.
Filed Date: 02/05/2009.
Accession Number: 20090206–0235.
Comment Date: 5 p.m. Eastern Time on Tuesday, February 17, 2009.

Docket Numbers: RP09–350–000.
Applicants: Maritimes & Northeast Pipeline, LLC.
Description: Maritimes & Northeast Pipeline, LLC submits Fifth Revised Sheet 211 *et al.* FERC Gas Tariff, First Revised Volume 1, to be effective 3/11/09.
Filed Date: 02/05/2009.
Accession Number: 20090206–0236.
Comment Date: 5 p.m. Eastern Time on Tuesday, February 17, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,
Deputy Secretary.
[FR Doc. E9–3248 Filed 2–13–09; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

February 11, 2009.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP03–36–042
Applicants: Dauphin Island Gathering Partners
Description: Dauphin Island Gathering Partners submits Seventh Revised Sheet 10A to its FERC Gas Tariff, First Revised Volume 1.

Filed Date: 02/04/2009
Accession Number: 20090205–0491
Comment Date: 5 p.m. Eastern Time on Tuesday, February 17, 2009

Docket Numbers: RP05–157–015
Applicants: Saltville Gas Storage Company L.L.C.
Description: Saltville Gas Storage Company LLC submits Original Sheet 25 *et al.* to FERC Gas Tariff, Original Volume 1, to be effective 4/1/09.
Filed Date: 02/05/2009
Accession Number: 20090206–0228
Comment Date: 5 p.m. Eastern Time on Tuesday, February 17, 2009

Docket Numbers: RP07–513–003
Applicants: Sea Robin Pipeline Company, LLC
Description: Sea Robin Pipeline Co, LLC submits its Refund Report.
Filed Date: 02/09/2009
Accession Number: 20090210–0265
Comment Date: 5 p.m. Eastern Time on Monday, February 23, 2009

Docket Numbers: RP08–25–001
Applicants: Southern LNG, Inc.
Description: Supplemental Information of Southern LNG, Inc.
Filed Date: 01/21/2009
Accession Number: 20090121–5243
Comment Date: 5 p.m. Eastern Time on Tuesday, February 17, 2009

Docket Numbers: RP09–185–001
Applicants: MoGas Pipeline LLC
Description: MoGas Pipeline LLC submits Second Revised Sheet 58 *et al.* to FERC Gas Tariff, First Revised Volume 1, to be effective 1/26/09.
Filed Date: 02/06/2009
Accession Number: 20090209–0175
Comment Date: 5 p.m. Eastern Time on Wednesday, February 18, 2009

Docket Numbers: RP09–351–000
Applicants: Egan Hub Storage, LLC
Description: Egan Hub Storage, LLC submits Fourth Revised Sheet 160 *et al.* to FERC Gas Tariff, First Revised Volume 1, to be effective 3/11/09.
Filed Date: 02/05/2009
Accession Number: 20090206–0237
Comment Date: 5 p.m. Eastern Time on Tuesday, February 17, 2009

Docket Numbers: RP09–352–000
Applicants: Midwestern Gas Transmission Company
Description: Midwestern Gas Transmission Company submits Sixth Revised Sheet 1 *et al.* to FERC Gas Tariff, Third Revised Volume 1, to be effective 3/6/09.
Filed Date: 02/06/2009
Accession Number: 20090209–0174
Comment Date: 5 p.m. Eastern Time on Wednesday, February 18, 2009

Docket Numbers: RP09–353–000
Applicants: Cheniere Creole Trail Pipeline, L.P.
Description: Cheniere Creole Trail Pipeline, LP submits First Revised Sheet 14 *et al.* FERC Gas Tariff, Original Volume 1 in compliance with FERC Order 712.
Filed Date: 02/06/2009
Accession Number: 20090209–0173
Comment Date: 5 p.m. Eastern Time on Wednesday, February 18, 2009

Docket Numbers: RP09–354–000
Applicants: Midwestern Gas Transmission Company
Description: Midwestern Gas Transmission Co submits Seventeenth Revised Sheet No. 237 *et al.* to FERC Gas, Tariff Third Revised Volume No. 1.
Filed Date: 02/09/2009
Accession Number: 20090210–0264
Comment Date: 5 p.m. Eastern Time on Monday, February 23, 2009

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,
Deputy Secretary.
[FR Doc. E9–3350 Filed 2–13–09; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

February 10, 2009.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC09–54–000.
Applicants: MACH Gen, LLC, New Athens Generating Company, LLC, New Harquahala Generating Company, LLC, Millennium Power Partners, L.P., Strategic Value Partners, LLC
Description: Application of MACH Gen, LLC, *et al.* for Order Authorizing Disposition of Jurisdictional Facilities under Section 203 of the Federal Power Act and Request for Expedited Action.
Filed Date: 02/04/2009.
Accession Number: 20090204–5157.
Comment Date: 5 p.m. Eastern Time on Wednesday, February 25, 2009.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER95–1528–020; ER01–1114–013; ER05–89–012; ER05–453–004; ER07–650–002; ER96–1088–047; ER03–674–013; ER01–2659–014; ER02–2199–012; ER03–54–012; ER99–1936–012; ER01–1114–013; ER07–651–001.
Applicants: Wisconsin Public Service Corporation, Upper Peninsula Power Company, Wisconsin River Power Company, WPS Energy Services, Inc., WPS POWER DEVELOPMENT, LLC, Quest Energy, LLC, Combined Locks Energy Center, LLC, WPS Empire State, Inc., WPS Beaver Falls Generation, LLC, WPS Syracuse Generation, LLC, WPS Canada. Generation, Inc., WPS New England Generation, Inc., WPS Westwood Generation, LLC, Advantage Energy, Inc.
Description: Integrys Energy Group, Inc submits revisions to its 12/22/08 compliance filing of market-based rate tariffs.
Filed Date: 02/03/2009.

Accession Number: 20090205–0272.
Comment Date: 5 p.m. Eastern Time on Tuesday, February 24, 2009.

Docket Numbers: ER96–2652–057; ER08–293–002; ER08–297–002; ER08–589–002; ER99–4228–010; ER99–3693–006; ER99–4229–010; ER99–4231–009; ER99–666–007; ER99–852–011.
Applicants: CL Power Sales Eight, L.L.C.; Forward Windpower, LLC; Lookout Windpower, LLC; Edison Mission Solutions, L.L.C.; CP Power Sales Nineteen, L.L.C.; Midwest Generation, LLC; CP Power Sales Seventeen, L.L.C.; CP Power Sales Twenty, L.L.C.; EME HOMER CITY GENERATION LP; Edison Mission Marketing & Trading, Inc.
Description: EME Companies submits revised market based rate tariffs and request for Category 1 Seller Status for particular regions.
Filed Date: 02/06/2009.
Accession Number: 20090210–0280.
Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Docket Numbers: ER99–2984–013.
Applicants: Green Country Energy, LLC.
Description: Green County Energy, LLC submits a revision to their market-based rate wholesale power sales tariff pursuant to Order 697.
Filed Date: 02/05/2009.
Accession Number: 20090206–0244.
Comment Date: 5 p.m. Eastern Time on Thursday, February 26, 2009

Docket Numbers: ER01–3103–017.
Applicants: Astoria Energy LLC.
Description: Astoria Energy LLC submits notification of non material change in status.
Filed Date: 02/05/2009.
Accession Number: 20090206–0245.
Comment Date: 5 p.m. Eastern Time on Thursday, February 26, 2009.

Docket Numbers: ER03–719–012; ER03–721–011.
Applicants: New Athens Generating Company, LLC; New Harquahala Generating Company, LLC.
Description: Withdrawal of Notice of Non-Material Change in Status.
Filed Date: 02/04/2009.
Accession Number: 20090204–5136.
Comment Date: 5 p.m. Eastern Time on Wednesday, February 25, 2009.

Docket Numbers: ER03–752–003.
Applicants: Solaro Energy Marketing Corporation, Inc.
Description: Solaro Energy Marketing Corporation request to be designated as a Category I Seller in all regions of the United States in compliance with Order 697 Compliance Filing.
Filed Date: 02/03/2009.
Accession Number: 20090205–0486.
Comment Date: 5 p.m. Eastern Time on Tuesday, February 24, 2009.

Docket Numbers: ER04–157–027; ER04–714–017.
Applicants: Bangor Hydro-Electric Company; New England Transmission Owners, Florida Power & Light Co. New England.
Description: Refund Report of New England Transmission Owners.
Filed Date: 02/10/2009.
Accession Number: 20090210–5037.
Comment Date: 5 p.m. Eastern Time on Tuesday, March 3, 2009.

Docket Numbers: ER06–754–006.
Applicants: Auburndale Power Partners, L.P.
Description: Amendment to Updated Market Power Analysis of Auburndale Power Partners, L.P.
Filed Date: 02/04/2009.
Accession Number: 20090204–5101.
Comment Date: 5 p.m. Eastern Time on Wednesday, February 25, 2009.

Docket Numbers: ER07–189–006; ER07–190–006; ER07–191–006; ER07–192–004.
Applicants: Duke Energy Indiana, Inc.; Duke Energy Kentucky, Inc.; Duke Energy Ohio, Inc.; Duke Energy Business Services LLC.
Description: Supplement to Duke MBR Companies' Dec. 17, 2008 analysis re MISO updated SIL study.
Filed Date: 02/06/2009.
Accession Number: 20090206–5101.
Comment Date: 5 p.m. Eastern Time on Friday, February 27, 2009.

Docket Numbers: ER07–59–005.
Applicants: Fortis Energy Marketing & Trading GP.
Description: Fortis Energy Marketing & Trading GP Supplement to Updated Tariff Sheet Incorporating Standard Language for Market-Based Sales of Ancillary Services in the Midwest Independent Transmission System Operator, Inc.
Filed Date: 02/06/2009.
Accession Number: 20090206–5100.
Comment Date: 5 p.m. Eastern Time on Friday, February 27, 2009.

Docket Numbers: ER08–274–004.
Applicants: Citadel Energy Strategies, LLC.
Description: Citadel Energy Strategies LLC submits notice of change in status.
Filed Date: 02/02/2009.
Accession Number: 20090204–0087.
Comment Date: 5 p.m. Eastern Time on Monday, February 23, 2009.

Docket Numbers: ER08–1329–003.
Applicants: American Electric Power Service Corporation.
Description: Appalachian Power Company et al. submits Second Substitute Original Sheet 314C.04 *et al.* to FERC Gas Tariff, Sixth Revised Volume 1.
Filed Date: 02/05/2009.
Accession Number: 20090206–0243.
Comment Date: 5 p.m. Eastern Time on Thursday, February 26, 2009.

Docket Numbers: ER09–186–001.
Applicants: Pacific Gas and Electric Company.
Description: Compliance Refund Report Filing in the Matter of the Twenty-Third Quarterly Filing of Facilities Agreements between Pacific Gas and Electric Company and the City and County of San Francisco.
Filed Date: 02/06/2009.
Accession Number: 20090206–5223.
Comment Date: 5 p.m. Eastern Time on Friday, February 27, 2009.

Docket Numbers: ER09–219–002; ER09–220–002.
Applicants: Duke Energy Carolinas, LLC; Duke Energy Carolinas, LLC.
Description: Duke Energy Carolinas, LLC submits corrections to its 1/7/09 compliance filing to include Attachment A, Second Substitute Sixth Revised Service Agreement 208 *et al.*
Filed Date: 02/04/2009.
Accession Number: 20090205–0488.
Comment Date: 5 p.m. Eastern Time on Wednesday, February 25, 2009.

Docket Numbers: ER09–301–001.
Applicants: Florida Power Corporation.
Description: Progress Energy Florida, Inc submits a cost based Power Sales Agreement with the Utilities Commission, City of New Smyrna Beach, Florida, to be effective 1/17/09.
Filed Date: 02/04/2009.
Accession Number: 20090205–0489.
Comment Date: 5 p.m. Eastern Time on Wednesday, February 25, 2009.

Docket Numbers: ER09–498–001.
Applicants: Vickers Power, L.L.C.
Description: Vickers Power, LLC submits an Amended Application for Market-Based Rate Authority and Request for Waivers, Blanket Authorizations, and Expedited Action.
Filed Date: 02/05/2009.
Accession Number: 20090206–0246.
Comment Date: 5 p.m. Eastern Time on Thursday, February 26, 2009.

Docket Numbers: ER09–502–001.
Applicants: EDF Development, Inc.
Description: EDF Development, Inc. submits Substitute Original Sheets to FERC Electric Tariff, Original Volume 1.
Filed Date: 02/06/2009.
Accession Number: 20090209–0201.
Comment Date: 5 p.m. Eastern Time on Tuesday, February 17, 2009.

Docket Numbers: ER09–523–001.
Applicants: Alliant Energy Industrial Services, Inc.
Description: Alliant Energy Industrial Services, Inc. submits a revised Notice of Cancellation and Tariff Sheet for AEIS Rate Schedule FERC 1.

Filed Date: 02/05/2009.
Accession Number: 20090209–0129.
Comment Date: 5 p.m. Eastern Time on Thursday, February 26, 2009.

Docket Numbers: ER09–614–000.
Applicants: Vista Energy Trading, LP.
Description: Vista Energy Trading submits Petition for Acceptance of Initial Tariff, Waivers and Blanket Authority, FERC Electric Tariff, Original Volume 1.
Filed Date: 02/04/2009.
Accession Number: 20090205–0487.
Comment Date: 5 p.m. Eastern Time on Wednesday, February 25, 2009.

Docket Numbers: ER09–634–000.
Applicants: AIG Energy Inc.
Description: AIG Energy Inc submits a notice of cancellation of AIG EI's First Revised Rate Schedule FERC 1.
Filed Date: 02/03/2009.
Accession Number: 20090203–0146.
Comment Date: 5 p.m. Eastern Time on Tuesday, February 24, 2009.

Docket Numbers: ER09–649–000.
Applicants: Orange and Rockland Utilities, Inc.
Description: Orange and Rockland Utilities, Inc. submits a notice of cancellation for multiple non-firm point-to-point transmission Service Agreements.
Filed Date: 02/02/2009.
Accession Number: 20090203–0261.
Comment Date: 5 p.m. Eastern Time on Monday, February 23, 2009.

Docket Numbers: ER09–650–000.
Applicants: PJM Interconnection, LLC.
Description: PJM Interconnection, LLC submits revised tariff sheets of the PJM Open Access Transmission Tariff and the Amended and Restated Operating Agreement of PJM Interconnection, LLC.
Filed Date: 02/03/2009.
Accession Number: 20090204–0088.
Comment Date: 5 p.m. Eastern Time on Tuesday, February 24, 2009.

Docket Numbers: ER09–653–000.
Applicants: Carolina Power & Light Company.
Description: Progress Energy Carolinas, Inc. submits a revised Power Sales Agreement with North Carolina Electric Membership Corporation, effective 4/5/09.
Filed Date: 02/04/2009.
Accession Number: 20090205–0367.
Comment Date: 5 p.m. Eastern Time on Wednesday, February 25, 2009.

Docket Numbers: ER09–654–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc Request to Terminate the Market Participant Agreement with JJR Power LLC and Notice Regarding Continuing and Anticipated Default.
Filed Date: 02/04/2009.
Accession Number: 20090205–0368.
Comment Date: 5 p.m. Eastern Time on Wednesday, February 25, 2009.

Docket Numbers: ER09–662–000.
Applicants: PJM Interconnection L.L.C.
Description: PJM Interconnection, LLC submits an executed Wholesale Market Participation Agreement with Frederick County Department of Public Works and Potomac Edison Company, etc.
Filed Date: 02/06/2009.
Accession Number: 20090209–0118.
Comment Date: 5 p.m. Eastern Time on Friday, February 27, 2009.

Docket Numbers: ER09–680–000.
Applicants: Westar Energy, Inc.
Description: Westar Energy, Inc. submits an unexecuted Cost-Based Bridge Agreement, FERC Rate Schedule No. 314 with the City of Arma, Kansas.
Filed Date: 02/06/2009.
Accession Number: 20090210–0278.
Comment Date: 5 p.m. Eastern Time on Tuesday, February 17, 2009.

Take notice that the Commission received the following electric securities filings:
Docket Numbers: ES09–17–000.
Applicants: ITC Great Plains, LLC.
Description: Application of ITC Great Plains, LLC for Authorization to Issue Securities Under Section 204 of the Federal Power Act.
Filed Date: 02/04/2009.
Accession Number: 20090204–5052.
Comment Date: 5 p.m. Eastern Time on Wednesday, February 25, 2009.

Take notice that the Commission received the following open access transmission tariff filings:
Docket Numbers: OA08–17–001.
Applicants: WSPP Inc.
Description: WSPP Inc. submits request for exemption of the Order 890 Compliance issued November 10, 2008.
Filed Date: 02/09/2009.
Accession Number: 20090209–5244.
Comment Date: 5 p.m. Eastern Time on Monday, March 2, 2009.

Docket Numbers: OA08–89–001.
Applicants: Mid-Continent Area Power Pool.
Description: Mid-Continent Area Power Pool submits Order No. 890–A Tariff Revisions in compliance with the letter order issued on January 9, 2009.
Filed Date: 02/09/2009.
Accession Number: 20090209–5243.
Comment Date: 5 p.m. Eastern Time on Monday, March 2, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,
Deputy Secretary.
[FR Doc. E9–3370 Filed 2–13–09; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL09–35–000]

Cottonwood Energy Company, LP, Complainant v. Entergy Gulf States, Inc., Respondent; Notice of Complaint

February 9, 2009.

Take notice that on February 2, 2009, Cottonwood Energy Company, LP (Complainant), pursuant to sections 206 and 306 of the Federal Power Act and Rule 206 of the Rules of Practice and Procedure, 18 CFR 385.206, filed a formal complaint against Entergy Gulf States, Inc., requesting that the Commission grant recovery of an overpayment in connection with the construction of certain interconnection facilities.

Complainant certifies that copies of the complaint were served on the contacts for the Respondent as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on February 26, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–3219 Filed 2–13–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR09–3–000]

Western Refining Southwest, Inc. and Western Refining Pipeline CompanyComplainants v. TEPPCO Crude Pipeline, LLC Respondent; Notice of Complaint

February 10, 2009.

Take notice that on February 9, 2009, Western Refining Southwest, Inc. (Western) and Western Refining Pipeline Company (Western Pipeline) filed a formal complaint against TEPPCO Crude Pipeline, LLC (TEPPCO), pursuant to Rule 206 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (FERC), 18 CFR 385.206; the Procedural Rules Applicable to Oil Pipeline Proceedings, 18 CFR 343.2; sections 1(4), 1(5), 1(6), 2, 3(1), 6(3), 8, 9, 13(1), 15(1), 16, and 20(11) of the Interstate Commerce Act (ICA), 49 U.S.C. App. 1(4), 1(5), 2, 3(1), 8, 9, 13, 15, and 16 (1988); alleging that TEPPCO wrongfully seized crude oil that Western had tendered as line fill in TEPPCO's pipeline from Midland, TX (Midland) to Hobbs, NM (Hobbs). Western also alleges that TEPPCO continues to wrongfully retain possession of that crude oil in a tank controlled by TEPPCO, and wrongfully reversed the flow of the same Midland to Hobbs pipeline in June 2008 without notification, thereby violating a capacity lease agreement Western Pipeline had with TEPPCO. In addition, Western Pipeline alleges that TEPPCO's actions violated its regulatory obligation to publish tariff amendments with the FERC and that TEPPCO improperly solicited and collected capacity lease payments for pipeline capacity that Western Pipeline could not have utilized.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 2, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–3340 Filed 2–13–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2310–173; Project No. 2266–096]

Pacific Gas and Electric Company; Nevada Irrigation District; Notice Dismissing Motions to Intervene

February 10, 2009.

On April 11, 2008, Pacific Gas and Electric Company (PG&E), in Project No. 2310–173, and the Nevada Irrigation District (District), in Project No. 2266–096, filed Notices of Intent to File License Applications and Pre-Application Documents (PAD) under the Commission's integrated licensing process (ILP) for the Drum Spaulding and Yuba-Bear Hydroelectric Projects, respectively. On September 24, 2008, the County of Placer filed motions to intervene in these proceedings.

Pursuant to Rule 214(a)(3) of the Commission's Rules of Practice and Procedure, any person may seek to intervene and become a party in a proceeding by filing a motion to intervene that complies with the content requirements of Rule 214(b).[1] However, a motion to intervene in the ILP at the *pre*-application stage is not appropriate. Because PG&E and the District have not yet filed license applications, there are no proceedings in which to intervene and the motions to intervene in Project Nos. 2310–173 and 2266–096 are dismissed as premature. Should PG&E and the District file actual license applications, the Commission will then provide an opportunity for intervention.[2]

This notice constitutes final agency action. Requests for rehearing of this notice may be filed within 30 days, pursuant to Rule 713 of the Commission's Rules of Practice and Procedure.[3]

Kimberly D. Bose,

Secretary.

[FR Doc. E9–3342 Filed 2–13–09; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.214 (2008).

[2] 18 CFR 5.1 *et seq.* (2008). To receive all filings in a docket, interested parties are encouraged to utilize the Commission's e-Subscription service, which can be accessed at *http://www.ferc.gov/docs-filing/esubscription.asp.*

[3] 18 CFR 385.713 (2008).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP78–123–000; CP80–435–000]

Alaskan Northwest Natural Gas Transportation Company; Notice of Effectiveness of Surrender of Certificate and Termination of Proceeding

February 6, 2009.

On December 15, 2008, as supplemented on January 23, 2009, Alaskan Northwest Natural Gas Transportation Company (ANNGTC)[1] submitted a notice that it was surrendering the conditional certificate that the Commission issued to ANNGTC in Docket Nos. CP78–123 and CP80–435, authorizing the construction of the Alaskan pipeline segment of the Alaska Natural Gas Transportation System (ANGTS) and the Alaska Gas Conditioning Facility.[2] ANNGTC's partners have concluded that ANNGTC is no longer a viable entity and that ANNGTC cannot feasibly pursue the ANGTS pipeline project conditionally authorized in Docket Nos. CP78–123 and CP80–435.

Because ANNGTC never perfected its conditional certificate and never constructed any facilities or provided any services under the Natural Gas Act (NGA), there are no facilities or services subject to the abandonment provisions of NGA section 7(b), and no abandonment authorization or other Commission action is required. Accordingly, ANNGTC's surrender of the certificate issued in Docket Nos. CP78–123 and CP80–435 is accepted by the Commission and this proceeding is terminated.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–3228 Filed 2–13–09; 8:45 am]

BILLING CODE 6717–01–P

[1] ANNGTC is a partnership, the sole remaining partners of which are TransCanada Pipeline USA, Ltd. and United Alaska Fuels Corporation.

[2] *See Alcan Pipeline Company*, 1 FERC ¶ 61,248 (1977); *Alaskan Northwest Natural Gas Transportation Company (formerly Alcan Pipeline Company and Northwest Alaskan Pipeline Company)*, 3 FERC ¶ 61,290 (1978); 18 FERC ¶ 61,002 (1982); and *Northwest Alaskan Pipeline Company, et al.*, 19 FERC ¶ 61,078 (1982).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR07–9–003]

Bay Gas Storage Company, Ltd.; Notice of Filing

February 10, 2009.

Take notice that on February 6, 2009, Bay Gas Storage Company, Ltd. filed a revised Statement of Operating Conditions and General Terms and Conditions pursuant to section 284.123(e) of the Commission's regulations and to comply with the Commission's Order Approving Settlement and Establishing Staff Panel issued on January 12, 2009 in Docket Nos. PR07–9–000 *et al.*

Any person desiring to participate in this proceeding must file a motion to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on Friday, February 20, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–3343 Filed 2–13–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ID–4064–004; ID–4260–002]

Coons, Rick D.; Thompson, M. Keith; Notice of Filing

February 9, 2009.

Take notice that on January 21, 2009, Rick D. Coons and M. Keith Thompson submitted for filing, an application for authority to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act, 16 U.S.C. 825d(b) (2008), Part 45 of Title 18 of the Code of Federal Regulations, 18 CFR Part 45 (2008), and Commission Order No. 664 (2005).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the

Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on February 13, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–3221 Filed 2–13–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER03–114–005, ER04–183–004]

Great Bay Power Marketing, Great Bay Hydro Corporation; Notice of Filing

February 9, 2009.

Take notice that on January 30, 2009, Great Bay Power Marketing and Great Bay Hydro Corporation filed updated versions of their Substitute First Revised Sheets to Rate Schedules FERC No. 1.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on February 17, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–3220 Filed 2–13–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR09–12–000]

Humble Gas Pipeline Company; Notice of Filing

February 6, 2009.

Take notice that on January 30, 2009, Humble Gas Pipeline Company (HGPC) filed a revised Statement of Operating Conditions pursuant to section 284.123 of the Commission's regulations to: (1) Add clarifying definitional language, (2) add detailed rate information pursuant to Order 714, (3) add information regarding nominations, measurement, gas quality and creditworthiness assessment; and (4) make ministerial corrections.

Any person desiring to participate in this proceeding must file a motion to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 17, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–3223 Filed 2–13–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RD09–2–000]

North American Electric Reliability Corporation; Notice of Filing

February 10, 2009.

Take notice that on February 6, 2009, pursuant to Section 215(d)(1) of the Federal Power Act and Part 39.5 of the Federal Energy Regulatory Commission's regulations, the North American Electric Reliability

Corporation filed a Petition For Approval of 15 Reliability Standards that contain changes to the previous version filed with the Commission, and to make the revised Reliability Standards effective immediately.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on February 26, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–3339 Filed 2–13–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF09–5181–000]

Western Area Power Administration; Notice of Filing

February 6, 2009.

Take notice that on January 13, 2009, the Deputy Secretary of the Department of Energy submitted Rate Order No. WAPA–142, confirmed and approved on an interim basis, effective on February 1, 2009 Rate Schedule L–F8, for firm electric service from the Loveland Area Projects. The ratesetting Power Repayment Studies for the Pick-Sloan Missouri Basin Program and the Fryingpan-Arkansas Project contain the data upon which Rate Order No. WAPA–142 is based and under the authority vested in the Federal Energy Regulatory Commission by Delegation Order No. 00–037.00, Rate Schedule L–F8 is submitted for confirmation and approved on a final basis effective February 1, 2009, and ending December 31, 2013.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 pm Eastern Time on March 2, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–3224 Filed 2–13–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP07–208–000]

Rockies Express Pipeline LLC; Notice of Technical Conference

February 10, 2009.

On February 17, 2009, staff of the Office of Energy Projects (OEP) will hold a technical conference for the REX East Project. Rockies Express Pipeline LLC requested the Technical Conference to discuss compliance with Environmental Condition 147 of the Commission's May 30, 2008 Order.[1]

The technical conference will be held on Tuesday, February 17, 2009, at 1:00 p.m. (EDT) in Room 3M–2A&B at the Commission Headquarters, 888 1st Street, NE., Washington, DC.

Information concerning any changes to the above may be obtained from the Commission's Office of External Affairs at (202) 502–8004 or toll free at 1–866–208–FERC (208–3372).

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free 866–208–3372 (voice) or (202) 208–8659 (TTY), or send a FAX to (202) 208–2106 with the required accommodations.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–3344 Filed 2–13–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR09–11–000]

Crosstex Mississippi Pipeline, L.P.; Notice of Petition for Approval of Rates

February 9, 2009.

Take notice that on February 2, 2009, Crosstex Mississippi Pipeline, L.P. (CMP) filed a petition for approval of rates pursuant to section 284.123(b)(2) of the Commission's regulations. CMP requests approval of a decrease in its maximum system-wide rate for the interruptible transportation of natural gas from $0.2927 per MMBtu to $0.2495 per MMBtu, effective February 1, 2009. In addition, CMP states that it proposes to retain the actual amount of gas used,

[1] *Rockies Express Pipeline LLC,* 123 FERC ¶ 61,234 (2008)

on a pro rata basis, for compressor fuel, company use, and lost and unaccounted for gas.

Any person desiring to participate in this rate proceeding must file a motion to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5pm Eastern Time on Tuesday, February 17, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–3218 Filed 2–13–09; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2008–0277; FRL–8773–7]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Asbestos (Renewal), EPA ICR Number 0111.12, OMB Control Number 2060–0101

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before March 19, 2009.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2008–0277, to (1) EPA online using www.regulations.gov (our preferred method), or by e-mail to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Attention:* Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–4113; *fax number:* (202) 564–0050; *e-mail address: williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 30, 2008 (73 FR 31088), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2008–0277, which is available for public viewing online at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1927.

Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper will be made available for public viewing at *http://www.regulations.gov,* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. **FOR FURTHER INFORMATION** about the electronic docket, go to *http://www.regulations.gov.*

Title: NESHAP for Asbestos (Renewal).

ICR Numbers: EPA ICR Number 0111.12, OMB Control Number 2060–0101.

ICR Status: This ICR is schedule to expire on April 30, 2009. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for asbestos were proposed on January 10, 1989, and promulgated on November 20, 1990 (55 FR 48414).

These standards apply to the following affected facilities: demolition and renovation of facilities; the disposal of asbestos waste; asbestos milling, manufacturing and fabricating; the use of asbestos on roadways; asbestos waste conversion facilities; and the use of asbestos insulation and sprayed-on materials. This information is being collected to assure compliance with 40 CFR part 61, subpart M.

The monitoring, recordkeeping, and reporting requirements outlined in these rules are similar to those required for other NESHAP regulations. Consistent with the NESHAP General Provisions (40 CFR part 63, subpart A), respondents are required to submit initial notifications conduct performance tests, and submit semiannual reports. They are also required to maintain records of applicability determinations; performance test results; exceedances; periods of startup, shutdown, or malfunction; monitoring records; and all other information needed to determine compliance with the applicable standard, such as records of visible emissions monitoring at potential sources of asbestos and of inspection records of air cleaning devices to ensure proper operation.

Any owner or operator subject to the provisions of this subpart must maintain a file of these measurements, and retain the file for at least five years following the collection of such measurements, maintenance reports, and records.

All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. This information is being collected to assure compliance with 40 CFR part 61, subpart M, as authorized in sections 112 and 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined to be private.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Number for EPA regulations listed in 40 CFR part 9 and 48 CFR chapter 15, are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information estimated to average two hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose and provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information. All existing ways will have to adjust to comply with any previously applicable instructions and requirements that have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners and operators of asbestos milling, manufacturing, fabricating, waste disposal, and waste conversion facilities

Estimated Number of Respondents: 9,432

Frequency of Response: On occasion, initially and semiannually

Estimated Total Annual Hour Burden: 229,381

Estimated Total Annual Cost: $18,517,636, inclusive of Labor costs. There are no capital/startup or O&M costs associated with this ICR.

Changes in the Estimates: There is no change in the labor hours or burden cost (capital startup/O&M expenses) in this ICR compared to the previous ICR. This is due to two considerations: (1) The regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for the industry is very low, negative or non-existent, so there is no significant change in the overall burden. It should be noted that there is minor correction to the labor hour cost due to rounding errors in the previous ICR.

Since there are no changes in the regulatory requirements and there is no significant industry growth, the labor hours and cost figures in the previous ICR are used in this ICR and there is no change in burden to industry.

Dated: February 10, 2009.

John Moses,

Acting-Director, Collection Strategies Division.

[FR Doc. E9–3267 Filed 2–13–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OARM–2008–0828, FRL–8773–6]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Background Checks for Contractor Employees (Renewal), EPA ICR Number 2159.03, OMB Control Number 2030–0043

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA)(44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request for to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before March 19, 2009.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA-HQ-OARM–2008–0828, to (1) EPA online using *www.regulations.gov* (our preferred method), by e-mail to *oei.docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Office of Environmental Information Docket, Mail Code 2822IT, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Attention:* Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Donna Blanding, Environmental Protection Agency, Office of Acquisition Management, Mail Code 3802R, 1200 Pennsylvania Ave., NW., Washington, DC 20460; (202) 564–1130; *fax number:* (202) 565–2475; *e-mail address: blanding.donna@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On November 13, 2008 (73 FR 67152), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OARM–2008–0828, which is available for online viewing at *www.regulations.gov*, or in person viewing at the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: Background Checks for Contractor Employees (Renewal).

ICR numbers: EPA ICR No. 2159.03, OMB Control No. 2030–0043.

ICR Status: This ICR is scheduled to expire on March 31, 2009. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: EPA uses contractors to perform services throughout the nation with regard to environmental emergencies involving the release, or threatened release, of oil, radioactive materials or hazardous chemicals that may potentially affect communities and the surrounding environment. Releases may be accidental, deliberate, or may be caused by natural disasters. Emergency responders are available 24 hours-a-day to an incident, and respond with necessary personnel and equipment to eliminate dangers to the public and environment. Contractors responding to any of these types of incidents are responsible for conducting background checks and applying Government-established suitability criteria in determining whether employees are acceptable to perform on given sites or on specific projects prior to contract employee performance. The information to be collected under the ICR for Background Checks for Contractor Employees covers citizenship or valid visa, criminal convictions, weapons offenses, felony convictions, parties prohibited from receiving federal contracts. The Contractor shall maintain records of all background checks. The collection of information is required to obtain or retain a contract with work of this nature (Title 5, CFR parts 731, 732, and 736).

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.55 minutes per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Entities affected by this action are contractors involved with Emergency Response that have significant security concerns, as determined by the Contracting Officer on a case-by-case basis, to provide qualified personnel that meet the background check requirements developed by EPA.

Estimated Number of Respondents: 1000 per year.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 550.

Estimated Total Annual Cost: $81,410, includes $0 annualized capital or O&M costs.

Changes in the Estimates: There is a decrease of 450 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease is due to just adjustments to the estimates.

Dated: February 9, 2009.

John Moses,

Acting Director, Collection Strategies Division.

[FR Doc. E9–3268 Filed 2–13–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2008–0363; FRL–8773–9]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NSPS for Lime Manufacturing (Renewal), EPA ICR Number 1167.09, OMB Control Number 2060–0063

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before March 19, 2009.

ADDRESSES: Submit your comments, referencing docket ID number EPA-OECA–2008–0363, to (1) EPA online using www.regulations.gov (our preferred method), or by e-mail to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Attention:* Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Sounjay Gairola, Office of Enforcement and Compliance Assurance, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW.,

Washington, DC 20460; *telephone number:* (202) 564–4003; *e-mail address: gairola.sounjay@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 30, 2008 (73 *FR* 31088), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2008–0363, which is available for public viewing online at *http://www.regulations.gov*, or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1927.

Use EPA's electronic docket and comment system at *http://www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov*, as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CB)I, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: NSPS for Lime Manufacturing (Renewal).

ICR Numbers: EPA ICR Number 1167.09, OMB Control Number 2060–0063.

ICR Status: This ICR is scheduled to expire on April 30, 2009. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The New Source Performance Standards (NSPS) for Lime Manufacturing (40 CFR Part 60, Subpart HH) were proposed on May 3, 1977, promulgated on April 26, 1984, and amended on October 17, 2000. The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart HH.

Owners or operators of the affected facilities must make an initial notification, performance tests, periodic reports, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 46 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Lime production facilities.

Estimated Number of Respondents: 41.

Frequency of Response: Initially, occasionally, and semiannually.

Estimated Total Annual Hour Burden: 3,773.

Estimated Total Annual Cost: $366,056: which includes $304,556 in Labor costs, $61,500 in O&M costs, and no annualized capital/startup costs.

Changes in the Estimates: There is no change in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. Apparent differences of less than $500 are attributable to rounding; in previous years, O&M costs were rounded to the nearest thousand; this ICR presents more exact figures.

Dated: February 10, 2009.

John Moses,

Acting-Director, Collection Strategies Division.

[FR Doc. E9–3269 Filed 2–13–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2008–0376; FRL–8773–8]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NSPS for Hot Mix Asphalt Facilities (Renewal), EPA ICR Number 1127.09, OMB Control Number 2060–0083

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before March 19, 2009.

ADDRESSES: Submit your comments, referencing docket ID number EPA–OECA–2008–0376, to (1) EPA online using *www.regulations.gov* (our preferred method), or by e-mail to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Attention:* Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Sounjay Gairola, Office of Enforcement and Compliance Assurance, Environmental Protection Agency, 1200

Pennsylvania Avenue, NW., Washington, DC 20460; *telephone number:* (202) 564–4003; *e-mail address: gairola.sounjay@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 30, 2008 (73 *FR* 31088), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2008–0376, which is available for public viewing online at *http://www.regulations.gov*, or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1927.

Use EPA's electronic docket and comment system at *http://www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov*, as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: NSPS for Hot Mix Asphalt Facilities (Renewal).

ICR Numbers: EPA ICR Number 1127.09, OMB Control Number 2060–0083.

ICR Status: This ICR is scheduled to expire on April 30, 2009. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The New Source Performance Standards (NSPS) for Hot Mix Asphalt Facilities (40 CFR Part 60, Subpart I) were proposed on June 11, 1973, promulgated on July 25, 1977, and amended on April 10, 1986.

The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart I.

Owners or operators of the affected facilities must make an initial notification, performance tests, periodic reports, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average four hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Hot Mix asphalt facilities.

Estimated Number of Respondents: 4,010.

Frequency of Response: Initially and occasionally.

Estimated Total Annual Hour Burden: 17,740.

Estimated Total Annual Cost: $1,431,455 inclusive of Labor costs. There are no annualized capital/startup or O&M costs associated with this ICR.

Changes in the Estimates: There is no change in the estimation methodology for labor hours or cost to the respondents in this ICR compared to the previous ICR. This is due to two considerations: (1) The regulations have not changed over the past three years and are not anticipated to change over the next three years: and (2) the growth rate for respondents is very low, negative, or non-existent.

The previous approved ICR renewal indicated 17,318 annual labor hours; it was determined that the number of indicated hours was based on a calculation error. The slight increase in burden is due to a correction in the total amount of labor hours from 17,318 to 17,740 per year.

Dated: February 10, 2009.

John Moses,

Acting Director, Collection Strategies Division.

[FR Doc. E9–3270 Filed 2–13–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8773–5]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget's (OMB) responses to Agency Clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

FOR FURTHER INFORMATION CONTACT: Rick Westlund (202) 566–1682, or e-mail at *westlund.rick@epa.gov* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR Number 1601.07; Air Pollution Regulations for Outer Continental Shelf Activities (Renewal); in 40 CFR part 55; was approved 01/15/

2009; OMB Number 2060–0249; expires 01/31/2012.

EPA ICR Number 1189.21; F019 Listing Amendment (Final Rule); in 40 CFR 260.34, 40 CFR 261.2(a)(2)ii, 40 CFR 261.4(a)23–25, and 40 CFR 261.31; was approved 01/27/2009; OMB Number 2050–0053; expires 01/31/2012.

EPA ICR Number 1831.04; NESHAP for Ferroalloys Production: Ferromanganese and Silicomanganese (Renewal); in 40 CFR part 63, subpart XXX; was approved 01/27/2009; OMB Number 2060–0391; expires 01/31/2012.

EPA ICR Number 1957.05; NESHAP for Metal Coil Surface Coating Plants (Renewal); in 40 CFR part 63, subpart SSSS; was approved 01/27/2009; OMB Number 2060–0487; expires 01/31/2012.

EPA ICR Number 0959.13; Facility Ground-Water Monitoring Requirements (Renewal); in 40 CFR 264.98, 40 CFR 264.99, 40 CFR 264.100, 40 CFR 265.90, 40 CFR 265.91, 40 CFR 265.92, 40 CFR 265.93 and 40 CFR 265.94; was approved 01/27/2009; OMB Number 2050–0033; expires 01/31/2012.

EPA ICR Number 2298.02; NESHAP for Nine Metal Fabrication and Finishing Source Categories (Final Rule); in 40 CFR part 63, subpart XXXXXX; was approved 01/28/2009; OMB Number 2060–0622; expires 01/31/2012.

EPA ICR Number 2048.03; BEACH Act Grant Program (Renewal); was approved 01/29/2009; OMB Number 2040–0244; expires 01/31/2012.

EPA ICR Number 1658.06; Control Technology Determination for Constructed or Reconstructed Major Sources of Hazardous Air Pollutants (Renewal); in 40 CFR part 63, subpart B; was approved 01/29/2009; OMB Number 2060–0373; expires 01/31/2012.

EPA ICR Number 1935.03; Standardized Permit for RCRA Hazardous Waste Management Facilities (Renewal); in 40 CFR part 267, 40 CFR 270.290, and 40 CFR 270.300–270.315; was approved 01/29/2009; OMB Number 2050–0182; expires 01/31/2012.

EPA ICR Number 2294.02; NESHAP for Plating and Polishing Area Sources (Final Rule); in 40 CFR part 63, subpart WWWWWW; was approved 01/30/2009; OMB Number 2060–0623; expires 01/31/2012.

EPA ICR Number 0969.08; Final Authorization for Hazardous Waste Management (Renewal); in 40 CFR 271.5–271.8, 40 CFR 271.20–271.21 and 40 CFR 271.23; was approved 02/06/2009; OMB Number 2050–0041; expires 02/29/2012.

EPA ICR Number 1608.05; State program Adequacy Determination: Municipal Solid Waste Landfills (MSWLFs) and Non-municipal, Non-hazardous Waste Disposal Units that Receive Conditionally Exempt Small Quantity Generator Hazardous Waste (Renewal); in 40 CFR part 239, 40 CFR part 257 and 40 CFR part 258; was approved 02/06/2009; OMB Number 2050–0152; expires 02/29/2012.

EPA ICR Number 1692.06; NESHAP for Petroleum Refineries (Renewal); in 40 CFR part 63, subpart CC; was approved 02/06/2009; OMB Number 2060–0340; expires 02/29/2012.

OMB Comments Filed

EPA ICR Number 2323.01; NESHAP for Chemical Manufacturing Area Sources (40 CFR part 63, subpart VVVVVV) (Proposed Rule); on 01/07/2009, OMB filed comment.

Dated: February 10, 2009.

John Moses,

Acting Director, Collection Strategies Division.

[FR Doc. E9–3271 Filed 2–13–09; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget, Comments Requested

February 10, 2009.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501–3520. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before March 19, 2009. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, (202) 395–5887, or via fax at 202–395–5167 or via internet at *Nicholas_A._Fraser@omb.eop.gov* and to *Judith-B.Herman@fcc.gov,* Federal Communications Commission, or an e-mail to *PRA@fcc.gov.* To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review'', (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, and (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1085.

Title: Section 9.5, Location Information, Provision of Notice, and Recordkeeping Requirement on Interconnected Voice Over Internet Protocol (VoIP) E911 Compliance.

Form No.: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 12 respondents; 12 responses.

Estimated Time Per Response: 50,197 hours.

Frequency of Response: Recordkeeping requirement and third party disclosure requirements.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. sections 151, 152(a), 153(33), 153(52), and 251(e)(3).

Total Annual Burden: 602,364 hours.

Total Annual Cost: $52,449,272.

Privacy Act Impact Assessment: No impact.

Nature and Extent of Confidentiality: The Commission is not requesting that respondents submit confidential information to the Commission.

Needs and Uses: The Commission requesting an extension (no change in recordkeeping and/or third party disclosure requirements) in order to obtain the full three year clearance from the OMB. There has been a significant decrease in recalculating the number of respondents/responses since this was last submitted to OMB in 2006. The Commission has also increased the total annual burden hours and annual costs due to a recalculation of the estimates.

The Commission is obligated by statute to promote ''safety of life and property'' and to ''encourage and facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure'' for public safety. Congress has established 911 as the national emergency number to enable all citizens to reach emergency services directly and efficiently, irrespective of whether a citizen uses wireline or wireless technology when calling for help by dialing 911. Efforts by federal, state and local government, along with the significant efforts of wireline and wireless service providers, have resulted in the nearly ubiquitous deployment of this life-saving service.

The *Order* the Commission adopted on May 19, 2005, sets forth rules requiring providers of VoIP services that interconnect with the nation's existing public switched telephone network (interconnected VoIP services) to supply E911 capabilities to their customers. To ensure E911 functionality for customers of VoIP service providers the Commission requires the following information collections:

A. *Location Registration.* Requires providers to interconnected VoIP services to obtain location information from their customers for use in the routing of 911 calls and the provision of location information to emergency answering points.

B. *Provision of Automatic Location Information (ALI).* Interconnected VoIP service providers will place the location information for their customers into, or make that information available through, specialized databases maintained by local exchange carriers (and, in at least one case, a state government) across the country.

C. *Customer Notification.* Requires that all providers of interconnected VoIP are aware of their interconnected VoIP service's actual E911 capabilities. That all providers of interconnected VoIP service specifically advise every subscriber, both new and existing, prominently and in plain language, the circumstances under which E911 service may not be available through the interconnected VoIP service or may be in some way limited by comparison to traditional E911 service.

D. *Record of Customer Notification.* Requires VoIP providers to obtain and keep a record of affirmative acknowledgement by every subscriber, both new and existing, of having received and understood this advisory.

E. *User Notification.* In addition, in order to ensure to the extent possible that the advisory is available to all potential users of an interconnected VoIP service, interconnected VoIP service providers must distribute to all subscribers, both new and existing, warning stickers or other appropriate labels warning subscribers if E911 service may be limited or not available and instructing the subscriber to place them on or near the customer premises equipment used in conjunction with the interconnected VoIP service.

OMB Control Number: 3060–0813.

Title: Section 20.18, Enhanced 911 Emergency Calling Services.

Form No.: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 47,031 respondents; 47,031 responses.

Estimated Time Per Response: 1–5 hours.

Frequency of Response: On occasion and one-time reporting requirements, recordkeeping requirement and third party disclosure requirements.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. 151, 152(a), 153(33), 153(52), and 251(e)(3).

Total Annual Burden: 198,200 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: Not applicable.

Nature and Extent of Confidentiality: The Commission is not requesting that respondents submit confidential information to the Commission.

Needs and Uses: The Commission will submit this information collection (IC) to the OMB during this comment period in order to obtain the full three year clearance from the OMB. The Commission is requesting an extension (no change in the reporting, recordkeeping and/or third party disclosure requirements) and there is no change in the number of responses and/or burden hours.

The notification requirement on Public Safety Answering Points (PSAPs) will be used by the carriers to verify that wireless E911 calls are referred to PSAPs who have the technical capability to use the data to the caller's benefit. TTY and dispatch requirements will be used to avoid customer confusion as to the capabilities of their handsets to reach help in emergency situations, this minimizing the possibility of critical delays in response time. The annual TTY reports will be used to monitor the progress of TTY technology and thus capability. Consultations on the specific meaning assigned to pseudo-Automatic Location Identification (ALI) are appropriate to ensure that all parties are working with the same information. Coordination between carriers and state and local entities to determine the appropriate PSAPs to receive and respond to E911 calls is necessary because of the difficulty in assigning PSAPs based on the location of the wireless caller. The deployment schedule that must be submitted by carriers seeking a waiver of Phase I or Phase II deployment schedules(s) will be used by the Commission to guarantee that the rules are enforced in as timely a manner as possible within technological constraints. In addition, a wireless carrier must implement E911 service within the six-month period following the date of the PSAP's request will be deemed valid if the PSAP making the request provides the following information: (1) Cost recovery; (2) necessary equipment; and (3) necessary facilities. (*See a complete explanation of these requirements in the 60 day notice that was published in the* ***Federal Register*** *on November 14, 2008 (73 FR 67514).*

In the alternative, the PSAP may demonstrate that a funding mechanism is in place, that it is E911 capable using a Non-Call Associated Signaling technology, and that it has made a timely request to the appropriate Local Exchange Carrier (LEC) for the necessary ALI database upgrade.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E9–3281 Filed 2–13–09; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 09–209]

Consumer Advisory Committee

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Commission announces the next meeting date and agenda of its Consumer Advisory Committee (''Committee''). The purpose of the Committee is to make recommendations to the Commission regarding consumer issues within the jurisdiction of the Commission and to facilitate the participation of all consumers in proceedings before the Commission.

DATES: The meeting of the Committee will take place on Wednesday, March 4, 2009, 3 p.m. to 5 p.m., at the Commission's Headquarters Building, Room TW–C305.

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

FOR FURTHER INFORMATION CONTACT: Scott Marshall, Consumer and Governmental Affairs Bureau, (202) 418–2809 (voice), (202) 418–0179 (TTY), or e-mail *Scott.Marshal@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Public Notice DA 09–209. The full text of document DA 09–209 and any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554, (202) 418–0270. Document DA 09–209 and any subsequently filed documents in this matter may also be purchased from the Commission's duplicating contractor at the contractor's Web site, *http://www.bcpiweb.com,* or by calling (800) 378–3160. Furthermore, document DA 09–209 any subsequently filed documents in this matter, may be found by searching ECFS at *http://www.fcc.gov/cgb/ecfs.*

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). Document DA 09–209 can also be downloaded in Word or Portable Document Format (PDF) at: *http://www.fcc.gov/cgb/cac/html.*

Synopsis

On February 9, 2009, the Commission released document DA 09–209, which announced the agenda, date and time of the Committee's next meeting. At its March 4, 2009 meeting, the Committee will consider administrative matters relating to its structure, operations, and future agenda, which were not addressed at its January 30, 2009 meeting because of time constraints. The Committee may also consider other matters within the jurisdiction of the Commission. It is anticipated that a majority of Committee members will participate via teleconference. A limited amount of time on the agenda will be available for oral comments from the public attending at the actual meeting site.

The Committee is organized under and operates in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2 (1988). The meeting is open to the public. Members of the public may send written comments to: Scott Marshall, Designated Federal Officer of the Committee, at the address indicated on the first page of this document. The meeting site is accessible to people with disabilities. Meetings are sign language interpreted with real-time transcription and assistive listening devices available. Meeting agendas are provided in accessible formats.

Federal Communications Commission.

Catherine W. Seidel,

Chief, Consumer and Governmental Affairs Bureau.

[FR Doc. E9–3283 Filed 2–13–09; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

[Notice 2009–04]

Price Index Increases for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold

AGENCY: Federal Election Commission.

ACTION: Notice of increases to contribution and expenditure limitations and lobbyist bundling disclosure threshold.

SUMMARY: As mandated by provisions of the Federal Election Campaign Act of 1971, as amended (''FECA'' or ''the Act''), the Federal Election Commission (''FEC'' or ''the Commission'') is adjusting certain contribution and expenditure limitations and the lobbyist bundling disclosure threshold set forth in the Act, to index the amounts for inflation. Additional details appear in the supplemental information that follows.

DATES: Under 2 U.S.C. 441a(c), the change in the dollar limits on contributions to candidates and candidates' authorized political committees is effective as of November 5, 2008. Under 2 U.S.C. 434(i)(3), the change in the threshold amount for reporting bundled contributions is effective as of January 1, 2009. Under 2 U.S.C. 441a(c), the changes in dollar limits on contributions to national political party committees, contributions by an individual, expenditures by party committees in connection with a general election for Federal office, and contributions to Senatorial candidates are effective as of January 1, 2009.

FOR FURTHER INFORMATION CONTACT: Mr. Greg J. Scott or Mr. Kevin R. Salley, Information Division, 999 E Street, NW., Washington, DC 20463; (202) 694–1100 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: Under the Federal Election Campaign Act of 1971, 2 U.S.C. 431 *et seq.*, as amended by the Bipartisan Campaign Reform Act of 2002 [1] and the Honest Leadership and Open Government Act of 2007,[2] coordinated party expenditure limits (2 U.S.C. 441a(d)(3)(A), (B) and (d)), certain contribution limits (2 U.S.C. 441a(a)(1)(A) and (B), (a)(3) and (h)), and the disclosure threshold for contributions bundled by lobbyists (2 U.S.C. 434(i)(3)(A)) are adjusted periodically to reflect increases in the consumer price index. *See* 2 U.S.C. 441a(c)(1) and 11 CFR 110.17. The Commission is publishing this notice to announce the adjusted limits and disclosure threshold.

Coordinated Party Expenditure Limits for 2009

Under 2 U.S.C. 441a(c), the Commission must adjust the expenditure limitations established by 2 U.S.C. 441a(d) (the limits on expenditures by national party committees, state party committees, or their subordinate committees in connection with the general election campaign of candidates for Federal office) annually to account for inflation. This expenditure limitation is increased by 4.36663, the percent difference between the price index, as certified to the Commission by the Secretary of Labor, for the 12 months preceding the beginning of the calendar year and the

[1] Public Law No. 107–155, 116 Stat. 81 (Mar. 27, 2002).

[2] Public Law No. 110–81, 121 Stat. 735 (Sep. 14, 2007).

price index for the base period (calendar year 1974).

1. Expenditure Limitation for House of Representatives in States With More Than One Congressional District

Both the national and state party committees have an expenditure limitation for each general election held to fill a seat in the House of Representatives in States with more than one congressional district. This limitation also applies to those States that elect individuals to the office of Delegate or Resident Commissioner.[3] The formula used to calculate the expenditure limitation in such States multiplies the base figure of $10,000 by the price index (4.36663), rounding to the nearest $100. *See* 2 U.S.C. 441a(d)(3)(B) and 11 CFR 109.32(b). Based upon this formula, the expenditure limitation for 2009 general elections for House candidates in these States is $43,700.

2. Expenditure Limitation for Senate and for House of Representatives in States With Only One Congressional District

Both the national and state party committees have an expenditure limitation for a general election held to fill a seat in the Senate or in the House of Representatives in States with only one congressional district. The formula used to calculate this expenditure limitation considers not only the price index but also the voting age population (''VAP'') of the state. The VAP of each state is published annually in the **Federal Register** by the Department of Commerce. 11 CFR 110.18. The general election expenditure limitation is the greater of: The base figure ($20,000) multiplied by the price index, 4.36663 (which totals $87,300); or $0.02 multiplied by the VAP of the state, multiplied by 4.36663. Amounts are rounded to the nearest $100. *See* 2 U.S.C. 441a(d)(3)(A) and 11 CFR 109.32(b). The chart below provides the state-by-state breakdown of the 2009 general election expenditure limitations for Senate elections. The expenditure limit for 2009 House elections in states with only one congressional district[4] is $87,300.

SENATE GENERAL ELECTION EXPENDITURE LIMITATIONS—2009 ELECTIONS

State	VAP (in thousands)	VAP × .02 × the price index (4.36663)	Senate Expenditure Limit (the greater of the amount in column 3 or $87,300)
Alabama	3,540	$309,200	$309,200
Alaska	506	44,200	87,300
Arizona	4,793	418,600	418,600
Arkansas	2,153	188,000	188,000
California	27,392	2,392,400	2,392,400
Colorado	3,732	326,000	326,000
Connecticut	2,689	234,900	234,900
Delaware	667	58,300	87,300
Florida	14,324	1,251,100	1,251,100
Georgia	7,137	623,300	623,300
Hawaii	1,003	87,600	87,600
Idaho	1,111	97,000	97,000
Illinois	9,722	849,100	849,100
Indiana	4,792	418,500	418,500
Iowa	2,290	200,000	200,000
Kansas	2,102	183,600	183,600
Kentucky	3,261	284,800	284,800
Louisiana	3,303	288,500	288,500
Maine	1,042	91,000	91,000
Maryland	4,293	375,000	375,000
Massachusetts	5,071	442,900	442,900
Michigan	7,613	664,900	664,900
Minnesota	3,966	346,400	346,400
Mississippi	2,172	189,700	189,700
Missouri	4,490	392,200	392,200
Montana	747	65,200	87,300
Nebraska	1,336	116,700	116,700
Nevada	1,932	168,700	168,700
New Hampshire	1,023	89,300	89,300
New Jersey	6,635	579,500	579,500
New Mexico	1,482	129,400	129,400
New York	15,082	1,317,300	1,317,300
North Carolina	6,979	609,500	609,500
North Dakota	498	43,500	87,300
Ohio	8,756	764,700	764,700
Oklahoma	2,736	239,000	239,000
Oregon	2,923	255,300	255,300
Pennsylvania	9,686	846,000	846,000
Rhode Island	822	71,800	87,300

[3] Currently, these States include the District of Columbia, the Commonwealth of Puerto Rico, and the territories of American Samoa, Guam, the United States Virgin Islands and the Northern Mariana Islands. See *http://www.house.gov/house/MemberWWW_by_State.shtml and http://about.dc.gov/statehood.asp.*

[4] Currently, these States are: Alaska, Delaware, Montana, North Dakota, South Dakota, Vermont and Wyoming. *See http://www.house.gov/house/MemberWWW_by_State.shtml.*

SENATE GENERAL ELECTION EXPENDITURE LIMITATIONS—2009 ELECTIONS—Continued

State	VAP (in thousands)	VAP × .02 × the price index (4.36663)	Senate Expenditure Limit (the greater of the amount in column 3 or $87,300)
South Carolina	3,414	298,200	298,200
South Dakota	606	52,900	87,300
Tennessee	4,736	413,600	413,600
Texas	17,601	1,537,300	1,537,300
Utah	1,887	164,800	164,800
Vermont	492	43,000	87,300
Virginia	5,946	519,300	519,300
Washington	5,008	437,400	437,400
West Virginia	1,428	124,700	124,700
Wisconsin	4,314	376,800	376,800
Wyoming	404	35,300	87,300

Lobbyist Bundling Disclosure Threshold for 2009

The Act, as amended by HLOGA, requires certain political committees to disclose contributions bundled by lobbyists/registrants and lobbyist/registrant political action committees once the contributions exceed a specified threshold amount. The Commission must adjust this threshold amount annually to account for inflation. The disclosure threshold is increased by multiplying the $15,000 statutory disclosure threshold by 1.06797, the difference between the price index, as certified to the Commission by the Secretary of Labor, for the 12 months preceding the beginning of the calendar year and the price index for the base period (calendar year 2006). The resulting amount is rounded to the nearest multiple of $100. *See* 2 U.S.C. 434(i)(3)(A) and (B), 441a(c) and 11 CFR 104.22(g). Based upon this formula ($15,000 × 1.06797), the lobbyist bundling disclosure threshold for calendar year 2009 is $16,000.

Contribution Limitation Increases for Individuals, Nonmulticandidate Committees and for Certain Political Party Committees Giving to U.S. Senate Candidates for 2009–2010 Election Cycle

BCRA amended the Act to extend inflation indexing to: (1) The limitations on contributions made by persons under 2 U.S.C. 441a(a)(1)(A) (contributions to candidates) and 441a(a)(1)(B) (contributions to national party committees); (2) the biennial aggregate contribution limits applicable to individuals under 2 U.S.C. 441a(a)(3); and (3) the limitation on contributions made to U.S. Senate candidates by certain political party committees at 2 U.S.C. 441a(h). *See* 2 U.S.C. 441a(c). These contribution limitations are increased by multiplying the respective statutory contribution amount by 1.21597, the percent difference between the price index, as certified to the Commission by the Secretary of Labor, for the 12 months preceding the beginning of the calendar year and the price index for the base period (calendar year 2001). The resulting amount is rounded to the nearest multiple of $100. *See* 2 U.S.C. 441a(c) and 11 CFR 110.17(b). The Commission has calculated the applicable percent difference to be 21.6 percent. Contribution limitations shall be adjusted accordingly:

Statutory provision	Statutory amount	2009–2010 limitation
2 U.S.C. 441a(a)(1)(A)	$2,000	$2,400.
2 U.S.C. 441a(a)(1)(B)	$25,000	$30,400.
2 U.S.C. 441a(a)(3)(A)	$37,500	$45,600.
2 U.S.C. 441a(a)(3)(B)	$57,500 (of which no more than $37,500 may be attributable to contributions to political committees that are not political committees of national political parties).	$69,900 (of which no more than $45,600 may be attributable to contributions to political committees that are not political committees of national political parties).
2 U.S.C. 441a(h)	$35,000	$42,600.

The increased limitation at 2 U.S.C. 441a(a)(1)(A) is to be in effect for the two-year period beginning on the first day following the date of the general election in the preceding year and ending on the date of the next regularly scheduled election. Thus the $2,400 figure above is in effect from November 5, 2008, to November 2, 2010. The limitations under 2 U.S.C. 441a(a)(1)(B), 441a(a)(3)(A) and (B), and 441a(h), shall be in effect beginning January 1st of the odd-numbered year and ending on December 31st of the next even-numbered year. Thus the new contribution limits under 2 U.S.C. 441a(a)(1)(B), 441a(a)(3)(A) and (B), and 441a(h) are in effect from January 1, 2009, to December 31, 2010. *See* 11 CFR 110.17(b)(1).

Dated: February 5, 2009.

On behalf of the Commission,

Steven T. Walther,

Chairman, Federal Election Commission.

[FR Doc. E9–2837 Filed 2–13–09; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2009–N–02]

Notice of Annual Adjustment of the Cap on Average Total Assets That Defines Community Financial Institutions

AGENCY: Federal Housing Finance Agency.

ACTION: Notice.

SUMMARY: The Federal Housing Finance Agency has adjusted the cap on average total assets that defines a ''Community Financial Institution'' based on the annual percentage increase in the Consumer Price Index for all urban consumers (CPI–U) as published by the Department of Labor (DOL). These changes took effect on January 1, 2009.

FOR FURTHER INFORMATION CONTACT: Patricia L. Sweeney, Division of Federal Home Loan Bank Regulation, by telephone at 202–408–2872, by electronic mail at *Pat.Sweeney@fhfa.gov*, or by regular mail at the Federal Housing Finance Agency, 1625 Eye Street, NW., Washington, DC 20006–4001.

SUPPLEMENTARY INFORMATION:

I. Background

A. Establishment of Federal Housing Finance Agency

Effective July 30, 2008, Division A of the Housing and Economic Recovery Act of 2008 (HERA), Public Law No. 110–289, 122 Stat. 2654 (2008), titled the Federal Housing Finance Regulatory Reform Act of 2008 (Reform Act), created the Federal Housing Finance Agency (FHFA) as an independent agency of the federal government. The Reform Act transferred the supervisory and oversight responsibilities over the Federal National Mortgage Association (Fannie Mae), Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, Enterprises), the 12 Federal Home Loan Banks (Banks), and the Bank System's Office of Finance (which acts as the Banks' fiscal agent), from the Office of Federal Housing Enterprise Oversight (OFHEO) and the Federal Housing Finance Board (FHFB) to the FHFA. The Reform Act provides for the abolishment of OFHEO and the FHFB 1 year after the date of enactment. The FHFA is responsible for ensuring that the Enterprises and the Banks operate in a safe and sound manner, including maintenance of adequate capital and internal controls, that their operations and activities foster liquid, efficient, competitive, and resilient national housing finance markets, and that they carry out their public policy missions through authorized activities. *See* § 1102, 122 Stat. 2663–64. The Enterprises and the Banks continue to operate under regulations promulgated by OFHEO and the FHFB until the FHFA issues its own regulations. *See id.* at §§ 1302, 1312, 122 Stat. 2795, 2798.

B. Statutory and Regulatory Background

Section 2(10)(A) of the Federal Home Loan Bank Act (Bank Act) defines a ''Community Financial Institution'' (CFI) as any member that has deposits insured by the Federal Deposit Insurance Corporation and that has average total assets below a statutory cap, which cap is to be adjusted annually for inflation. See 12 U.S.C. 1422(10)(A) (as amended); 12 CFR 925.1. Section 1211(a) of the Reform Act amended the definition of ''CFI'' to increase the average total assets cap for CFIs from $500 million to $1 billion, and retained the requirement for annual inflation adjustments. This Notice announces the annual CPI–U adjustment for the CFI asset cap, effective January 1, 2009, as further discussed below. Section 1202 of the Reform Act also removed the annual compensation limits and CPI–U adjustment requirement in former section 7(i)(2) of the Bank Act for members of the boards of directors of the Banks. *See* 12 U.S.C. 1427(i)(2) (as amended); 12 CFR 918.3(a). As a result, this Notice does not include any CPI adjustment for such limits.

II. Calculating the Annual Adjustment

Consistent with the practice of other federal agencies, and based on past practice of the FHFB, the annual adjustment to the CFI asset cap is based on the percentage increase in the CPI–U from November 2007 to November 2008. Specifically, the annual adjustment to the CFI asset cap reflects the percentage by which the CPI–U published for November of the preceding calendar year exceeds the CPI–U published for November of the year before the preceding calendar year.

The DOL encourages use of CPI–U data that have not been seasonally adjusted in ''escalation agreements'' because seasonal factors are updated annually and seasonally adjusted data are subject to revision for up to 5 years following the original release. Unadjusted data are not routinely subject to revision, and previously published unadjusted data are only corrected when significant calculation errors are discovered. Accordingly, the FHFA is continuing the practice of the FHFB in using data that have not been seasonally adjusted.

As noted above, the Reform Act raised the CFI asset cap to $1 billion, effective July 30, 2008, the date of enactment. Because the FHFA believes that there are benefits to the Banks and their members from retaining the FHFB's practice of scheduling the annual adjustments to take effect as of the first of each year, it has decided to continue that practice, rather than delay the adjustment to the anniversary of the enactment of the Reform Act. Such a delay also would result in a 19 month gap between regulatory adjustments, which arguably would be contrary to the statutory requirement for annual inflation adjustments. Hence, applying the unadjusted CPI–U data results in a 1.1 percent increase in the CFI asset cap, effective as of January 1, 2009, as summarized below.

CFI Asset Cap: The CFI asset cap was $625 million prior to the enactment of the Reform Act on July 30, 2008. Upon enactment of the Reform Act, the CFI asset cap automatically increased to $1 billion. Applying the unadjusted CPI–U, the current CFI asset cap must be increased by 1.1 percent to reflect inflation over the prior year. Thus, as of January 1, 2009, the CFI asset cap is $1,011,000,000, which amount was obtained by rounding to the nearest million, which has been the practice for all prior adjustments.

Dated: February 10, 2009.

James B. Lockhart III,

Director, Federal Housing Finance Agency.

[FR Doc. E9–3369 Filed 2–13–09; 8:45 am]

BILLING CODE 8070–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested

persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 13, 2009.

A. Federal Reserve Bank of Kansas City (Todd Offenbacker, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. Meader Insurance Agency, Inc., Waverly, Kansas, to retain an additional .82 percent of the voting shares of 1st Financial Bancshares, Inc., and thereby indirectly retain additional voting shares Sylvan Agency, Inc., and 1st Financial Bank, all of Overland Park, Kansas.

Board of Governors of the Federal Reserve System, February 11, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–3315 Filed 2–13–09; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Change in Meeting Agenda

The Federal Retirement Thrift Investment Board previously announced on February 11, 2009, its intention to hold an Open Meeting on February 17, 2009 at Serco Inc., 1818 Library Street, Suite 1000, Reston, Virginia 20190.

A portion of the meeting will be closed to discuss proprietary data.

The prompt and orderly conduct of business required this change and no earlier announcement was possible.

Additional information concerning this meeting may be obtained from Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: February 11, 2009.

Thomas K. Emswiler,

Secretary, Federal Retirement Thrift Investment Board.

[FR Doc. E9–3338 Filed 2–12–09; 11:15 am]

BILLING CODE 6760–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–00XX]

Office of Facilities Management and Program Services; Information Collection; HSPD–12, Background Check Investigations for Temporary Contractors and Child Care Workers

AGENCY: Office of Facilities Management and Program Services, Public Building Service (PBS), General Services Administration (GSA).

ACTION: Notice of request for comments regarding a new OMB information collection.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration will be submitting to the Office of Management and Budget (OMB) a request to review and approve the new information collection requirement regarding the collection of personal data for background check investigations for temporary contractors and child care workers accessing GSA owned and leased controlled facilities.

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected.

DATES: Submit comments on or before: April 20, 2009.

FOR FURTHER INFORMATION CONTACT: Ms. Layna Koentopf, Program Analyst, Building Security and Policy Division, GSA, 1800 F Street, NW., Washington, DC 20405; or telephone (202) 208–1585. Please cite OMB Control No. 3090–00XX, HSPD–12, Background Check Investigations for Temporary Contractors and Child Care Workers.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Regulatory Secretariat (VPR), General Services Administration, Room 4035, 1800 F Street, NW., Washington, DC 20405. Please cite HSPD–12, Background Check Investigations for Temporary Contractors and Child Care Workers, in all correspondence.

SUPPLEMENTARY INFORMATION:

A. Purpose

Homeland Security Presidential Directive (HSPD) 12 ''Policy for a Common Identification Standard for Federal Employees and Contractors'' requires the implementation of a governmentwide standard for secure and reliable forms of identification for Federal employees and contractors. OMB's implementing instructions require all contract employees requiring routine access to federally controlled facilities for greater than six (6) months to receive a background investigation. The minimum background investigation is the National Agency Check with Written Inquiries or NACI.

The policy on background check requirements for temporary contractors, defined as requiring access for six (6) months or less, is up to each individual agency. GSA requires that temporary contractors who will be working up to 6 months and need routine access to nonpublic areas of GSA-controlled facilities shall either undergo a law enforcement check or must be escorted, at the minimum. Because of a lack of escorting personnel, temporary contractors expected to work more than 10 days usually receive law enforcement checks.

In addition, there is no requirement in the law or HSPD–12 that requires child care employees to be subject to the NACI since employees of child care providers are neither government employees nor government contractors. Instead, the child care providers are required to complete the criminal history background checks mandated in the Crime Control Act of 1990, Public Law 101–647, dated November 29, 1990, as amended by Public Law 102–190, dated December 5, 1991. These statutes require that each employee of a child care center located in a Federal building or in leased space must undergo a background check.

According to GSA policy, both temporary contractors and child care workers (as described above) will need to submit the following:

1. An original signed copy of a Basic National Agency Check Criminal History, GSA Form 176T (for temporary contractors); or a Basic National Agency Check Criminal History, GSA Form 176C (for child care workers); and

2. Two sets of fingerprints on FBI Fingerprint Cards, for FD–258.

This is not a request to collect new information, this is a request to change the form that is currently being used to collect this information. The new GSA forms will be less of a public burden. This information is presently being collected on either the old Federal Protective Service 176 Form or the SF85P.

B. Annual Reporting Burden

Respondents: 18,800.
Responses per Respondent: 1.
Hours per Response: 1.
Total Burden Hours: 18,800.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW., Room 4041, Washington, DC 20405, telephone (202) 501–4755. Please cite HSPD–12, Background Check Investigations for Temporary Contractors and Child Care Workers, in all correspondence.

Dated: February 12, 2009.

Casey Coleman,

Chief Information Officer, General Services Administration.

[FR Doc. E9–3402 Filed 2–13–09; 8:45 am]

BILLING CODE 6820–XX–P

GOVERNMENT ACCOUNTABILITY OFFICE

Publication of Volume III of GAO's ''Principles of Federal Appropriations Law''

AGENCY: Government Accountability Office.

ACTION: Notice.

SUMMARY: The third edition of Volume III of GAO's ''Principles of Federal Appropriations Law'' was recently published by the Government Printing Office (GPO). Government departments, agencies, and other federal organizations that normally require more than one copy were given an opportunity to request them through their agencies' account representatives at a pre-publication rate. This notice is intended for other parties who might be interested in purchasing the book.

SUPPLEMENTARY INFORMATION: The Government Accountability Office (GAO) published Volume III of ''Principles of Federal Appropriations Law,'' third edition—also known as ''The Red Book.'' This publication is part of a multi-volume set intended to present a basic reference covering those areas of law in which the Comptroller General renders decisions. Our approach is to lay a foundation with text discussion, using specific legal authorities to illustrate the principles discussed, their application, and exceptions. These authorities include GAO decisions and opinions, judicial decisions, statutory provisions, and other relevant sources.

GAO provided copies of this volume to the heads and general counsels of Federal agencies, and agencies were already given an opportunity to place advance (rider) orders for additional copies of this volume with their account representatives at the Government Printing Office (GPO).

This notice is intended to tell the general public that they can now order this publication through GPO's new online bookstore, at *http://bookstore.gpo.gov/actions/GetPublication.do?stocknumber=020-000-00289-1*. The price is $75.

Through periodic training courses on federal appropriations law, GAO believes that this publication might be useful in particular to law offices, to accounting firms, to the financial, budget, or accounting officers of government contractors, to university and state law libraries, to corporate chief financial officers, and to people who follow federal financial management, contracts, trust funds, facilities management, and real property.

We published the third edition in loose-leaf format and include a CD-Rom. Volume III includes four chapters covering acquisition of goods and services, real property, claims by and against the government, and miscellaneous topics such as boards and commissions, government use of corporate entities, nonappropriated fund instrumentalities, and trust funds. Volume III, third edition replaces the old Volume IV, second edition. This completes the third edition of The Red Book. However, we plan to update the third edition annually. The updates will only be published electronically at *http://www.gao.gov/legal/redbook.htm*. GAO did not revise Volume III, second edition. That volume covers topics that are no longer the responsibility of GAO, including claims settlement, debt collection, and the payment of judgments. Chapter 14 of Volume III, third edition, briefly summarizes the contents of Volume III, second edition.

Authority: 31 U.S.C. 712, 717, 719, 3511, 3526–29.

Susan Poling,

Managing Associate General Counsel, Government Accountability Office.

[FR Doc. E9–3316 Filed 2–13–09; 8:45 am]

BILLING CODE 1610–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Solicitation of Written Comments on Draft Strategic National Vaccine Plan; Extension of Period for Public Comments

AGENCY: Department of Health and Human Services, Office of the Secretary.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services published a notice in the **Federal Register** of January 14, 2009 (Vol. 74, No. 9, pages 2076–2078) soliciting comments on the draft strategic National Vaccine Plan. Comments were requested no later than 5 p.m. on January 30, 2009. Because many stakeholders responded that they did not have adequate time to coordinate comments from their respective constituencies, the National Vaccine Program Office (NVPO) is extending the period for public comments.

DATES: All comments on the draft Strategic National Vaccine Plan should be received no later than 5 p.m. on March 31, 2009.

ADDRESSES: Electronic responses are preferred and may be addressed to *NVPComments@hhh.gov*. Written responses should be addressed to the National Vaccine Program Office, Department of Health and Human Services, 200 Independence Avenue, SW., Room 443–H, Washington, DC 20201. *Attention:* National Vaccine Plan RFI.

FOR FURTHER INFORMATION CONTACT: CAPT Raymond A. Strikas, M.D., National Vaccine Program Office, Department of Health and Human Services, 200 Independence Avenue, SW., Room 443–H, Washington, DC 20201; (202) 690–5566; fax 202–260–1165; e-mail *NVPComments@hhs.gov*.

Dated: February 9, 2009.

Bruce Gellin,

Deputy Assistant Secretary for Health, Director, National Vaccine Program Office, U.S. Department of Health and Human Services.

[FR Doc. E9–3388 Filed 2–13–09; 8:45 am]

BILLING CODE 4150–44–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–09–0539]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 or send comments to Maryam I. Daneshvar, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS D–74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Estimating the Capacity for National and State-Level Colorectal Cancer Screening through a Survey of Endoscopic Capacity (SECAP II)—Reinstatement with Changes—Division of Cancer Prevention and Control, National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Colorectal cancer (CRC) is the second leading cause of cancer-related deaths in the United States (U.S.). Removal of pre-cancerous polyps before they transform into cancer can prevent colorectal cancer from developing. Additionally, early asymptomatic cancers found through screening respond better to treatment than more advanced cancers that are detected once they become symptomatic. As a result, CRC is ideally suited for prevention and early detection through regular screening. Flexible sigmoidoscopy and colonoscopy, two lower gastrointestinal (GI) endoscopic procedures currently recommended as colorectal cancer screening tests, provide direct visualization of the colon, and allow qualified medical professionals to identify and remove polyps as well as to detect early cancers. Both of these tests require specialized training. Flexible sigmoidoscopy provides a view of only the lower half of the colon, but is still used widely. Colonoscopy, which provides a view of the entire colon, is both a primary screening test and the recommended follow-up procedure for any other positive colorectal cancer screening test.

Information regarding the capacity of the U.S. health care system to provide lower GI endoscopic procedures is critical to planning widespread CRC screening programs. In 2002, CDC conducted the *National Survey of Endoscopic Capacity (SECAP)* (OMB No. 0920–0539, exp. 3/31/2003) to obtain an estimate of the number of colorectal cancer screening and follow-up tests currently being performed, as well as the maximum number of screening and follow-up tests that could be performed in the event of widespread screening. In 2003–2005, CDC conducted similar surveys in 15 selected states to provide estimates at state and sub-state levels (*State Survey of Endoscopic Capacity,* OMB No. 0920–0590, exp. 6/30/2006). These capacity estimates provided critical information that helped in the planning of national and state colorectal cancer screening efforts. However, in light of recent trends in colorectal cancer screening (*e.g.* , increases in the percentage of public and private insurers that reimburse for screening colonoscopy, increased use of colonoscopy and decreased use of flexible sigmoidoscopy, availability of other colorectal cancer screening procedures), there is a need to update estimates of endoscopic capacity to guide continued screening initiatives.

CDC plans to request OMB approval for three years to conduct a national survey of endoscopic capacity again in 2009–2010, and additional state-level surveys over a three-year period. The proposed national survey will employ the same methodology used in the previous national survey, and the same—but updated—sampling frame. The proposed state-level information collection will include a census survey of selected states, based on methodology employed with the previously fielded state-based survey.

The target population for the national survey will be all facilities in the U.S. that use lower gastrointestinal flexible endoscopic equipment for the detection of colorectal cancer in adults. Information will be collected from a random sample of 1,800 facilities, stratified by U.S. Census region and urban/rural location. Similarly, information will be collected from a census of qualifying facilities in up to 18 selected states. An average of 200 facilities will participate in each state capacity survey. The total estimated number of respondents for the state capacity surveys is 3,600 facilities. The same survey instrument will be used for both information collections. Minor, non-substantive changes to the self-administered, paper-and-pencil survey instrument will be made to improve usability.

The specific aims of the information collection are to provide: (1) Current estimates of the number of colorectal cancer screening and follow-up procedures being performed; (2) current estimates of the maximum number of procedures that could be performed in the event of widespread screening; and (3) information regarding the types of facilities and providers that perform the procedures.

Facilities will be recruited and screened through a telephone interview. Participation is voluntary and there are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Medical Facilities that Perform CRC Screening.	State Survey Recruitment Interview	1,400	1	5/60	117
	State SECAP Survey	1,200	1	25/60	500
	National Survey Recruitment Interview.	700	1	5/60	58
	National SECAP Survey	600	1	25/60	250
Total					925

Dated: February 6, 2009

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E9–3352 Filed 2–13–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry(NCEH/ATSDR)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), CDC and NCEH/ATSDR announce the following meeting of the aforementioned committee.

Times and Dates: 11 a.m.–11:30 a.m., March 4, 2009.

Place: This meeting will be held by conference call. The call in number is (877) 315–6535 and enter passcode: 383520.

Status: The teleconference meeting is open to the public.

Purpose: The Secretary, Department of Health and Human Services (HHS) and by delegation, the Director, CDC, and Administrator, NCEH/ATSDR, are authorized under Section 301(42 U.S.C. 241) and Section 311(42 U.S.C. 243) of the Public Health Service Act, as amended, to: (1) Conduct, encourage, cooperate with, and assist other appropriate public authorities, scientific institutions, and scientists in the conduct of research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and other impairments; (2) assist states and their political subdivisions in the prevention of infectious diseases and other preventable conditions and in the promotion of health and well being; and (3) train state and local personnel in health work. The BSC, NCEH/ATSDR provides advice and guidance to the Secretary, HHS; the Director, CDC; the Administrator, ATSDR; and the Director, NCEH/ATSDR, regarding program goals, objectives, strategies, and priorities in fulfillment of the agency's mission to protect and promote people's health. The board provides advice and guidance that will assist NCEH/ATSDR in ensuring scientific quality, timeliness, utility, and dissemination of results. The board also provides guidance to help NCEH/ATSDR work more efficiently and effectively with its various constituents and to fulfill its mission in protecting America's health.

Matters To Be Discussed: The teleconference meeting will be convened to approve/vote on the *Report on the Peer Review and Clearance Policies and Practices in the National Center for Environmental Health and the Agency for Toxic Substances and Disease Registry*.

Agenda items are tentative and subject to change as priorities dictate.

For More Information Contact: Sandra Malcom, Committee Management Specialist, NCEH/ATSDR, 4770 Buford Highway, Mail Stop F–61, Chamblee, Georgia 30345; telephone 770/488–0575, fax 770/488–3377; *E-mail: smalcom@cdc.gov*.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and NCEH/ATSDR.

Dated: February 11, 2009.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E9–3351 Filed 2–13–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Communities Empowering Youth (CEY) Program Evaluation.

OMB No.: 0970–0335.

Description: This proposed information collection activity is to obtain information from Communities Empowering Youth (CEY) grantee agencies and the faith-based and community organizations working in partnership with them. The CEY evaluation is an important opportunity to examine the outcomes achieved through this component of the Compassion Capital Fund in meeting its objective of improving the capacity of faith-based and community organizations and the partnerships they form to increase positive youth development and address youth violence, gang involvement, and child abuse/neglect. The evaluation will be designed to assess changes and improvements in the structure and functioning of the partnership and the organizational capacity of each participating organization. The purpose of this request is to revise the approved baseline instrument for follow-up data collection.

Respondents: CEY grantees and the faith-based and community organizations that are a part of the partnership approved under the CEY grant are respondents.

ANNUAL BURDEN ESTIMATES

Instrument	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Total annual burden hours
Follow-up Survey	354	1	.466	165

Estimated Total Annual Burden Hours: 165.

Additional Information:

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *OPREinfocollection@acf.hhs.gov*.

OMB Comment:

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, *Fax:* 202–395–6974, *Attn:* Desk Officer for the Administration for Children and Families.

Dated: February 6, 2009.

Brendan C. Kelly,

OPRE Reports Clearance Officer.

[FR Doc. E9–3050 Filed 2–13–09; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: HHS/ACF/OPRE Head Start Classroom-based Approaches and Resources for Emotion and Social skill promotion (CARES) project: Impact and ImplementationStudies

OMB No.: New collection

Description: The Head Start Classroom-based Approaches and Resources for Emotion and Social skill promotion (CARES) project will evaluate social emotional program enhancements within Head Start settings serving three- and four-year old children. This project focuses on identifying the central features of effective programs to provide the information federal policy makers and Head Start providers will need if they are to increase Head Start's capacity to improve the social and emotional skills and school readiness of preschool age children. The project is sponsored by the Office of Planning, Research, and Evaluation (OPRE) of the Administration for Children andFamilies (ACF). The Head Start CARES project will use a group-based randomized design to test the effects of three different evidence-based programs designed to improve the social and emotional development of children in Head Start classrooms.

The purpose of this data collection is to assess the impact and implementation of program models through surveys with teachers and parents, direct child assessments, as well as interviews with teachers, coaches, trainers, center directors, center staff, and grantee/delegate agency directors.

Respondents: The respondents to these various surveys and interviews will include Head Start teachers, center staff and directors, grantee/delegate agency directors, trainers, local coaches, low-income parents and their Head Start children. Children in the study will be 3- and 4-year olds in the selected Head Start classrooms.

ANNUAL BURDEN ESTIMATES

Instrument	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Estimated annual burden hours
Baseline Lead Teacher Self-Report Survey	120	1	0.33	40
Follow-up Lead Teacher Self-Report Survey	120	1	0.33	40
Teacher Report on Individual Children	1,216	3	0.33	1,204
Baseline Parent Survey	1,216	1	0.33	401
Follow-up Parent Survey	1,216	1	0.33	401
Direct Child Assessment	960	3	0.75	2,160
Site Visit: Coach Interview Guide	20	1	1	20
Site Visit: Teacher Interview Guide	120	1	1	120
Site Visit: Center Director Interview Guide	20	1	1	20
Site Visit: Center Staff Interview Guide	60	1	1	60
Grantee/Delegate Agency Interview Guide	7	1	1	7
Trainer Interview Guide	20	1	1	20

Estimated Total Annual Burden Hours: 4,493

*Additional Information:*Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research andEvaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, *Attn:* OPREReports Clearance Officer. All requests should be identified by the title of the information collection. *E-mail address: OPREinfocollection@acf.hhs.gov.*

*OMB Comment:*OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **FederalRegister**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, *Fax:* 202–395–6974,*Attn:* Desk Officer for the Administration for Children and Families.

Dated: February 6, 2009.

Brendan C. Kelly,

OPRE Reports Clearance Officer.

[FR Doc. E9–3052 Filed 2–13–09; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Building Strong Families (BSF) Demonstration and Evaluation—Impact Study Second Follow-up.

OMB No.: 0970–0304.

Description: The Administration for Children and Families (ACF), U.S.Department of Health and Human Services (HHS), anticipates continuing data collection for the 15-month follow-up surveys of the Building Strong Families (BSF) Demonstration and Evaluation. Data collection will continue for an additional 6 months beyond the current date of expiration (July 31, 2009).

This data collection is a part of the BSF evaluation, which is an important opportunity to learn if well-designed interventions can help low-income couples develop the knowledge and relationship skills that research has shown are associated with healthy marriages. The BSF evaluation uses an experimental design that randomly assigns couples who volunteer to participate in BSF programs to a program or control group.

Materials for the original 15-month data collection effort, previously submitted to OMB, covered impact and implementation data collections. Data collection for the impact study is complete. ACF anticipates collecting data for an additional 6 months in order to complete data collection for the entire sample of participants.

Respondents: Couples enrolled in the BSF evaluation, including program and control groups.

ANNUAL BURDEN ESTIMATES

Instrument	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Estimated annual burden hours
15-month telephone survey (female partner)	1,434	1	.91	1,305
15-month telephone survey (male partner)	1,434	1	.83	1,190

Total Burden Hours: 2,495

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research andEvaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: OPREReports Clearance Officer. All requests should be identified by the title of the information collection. *E-mail address: OPREinfocollection@acf.hhs.gov*.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **FederalRegister**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, *Fax:* 202–395–6974, *Attn:* Desk Officer for the Administration for Children and Families.

Dated: February 6, 2009.

Brendan C. Kelly,

Clearance Officer.

[FR Doc. E9–3053 Filed 2–13–09; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects:

Title: Grant Application Data Summary (GADS) Form.

OMB No.: 0970–0328.

Description: The purpose of this request is to obtain emergency OMB clearance of the Grant Application Data Summary (GADS) form so information collected from all FY09 ANA grant applicants (in March 2009) is accurate.

The GADS collects information from applicants seeking grants from the Administration for Native Americans (ANA). ANA awards annual grants in nine competitive areas. Previously, ANA collected information using the GADS form for 4 competitive areas, not 9. The GADS form, which is part of the ANA discretionary grant application package, has been revised to comply with required changes made to the ANA FY09 Program Announcements (PAs). The PAs were changed to comply with a new policy established by ACF requiring that subcategories within a PA be broken down into a stand-alone PA. On 12/5/08, ANA published nine PAs to support this new requirement for separate PAs, it was necessary for ANA to change the GADS form to reflect the new PAs. Below are the changes to the GADS form: (please select relevant topic under one heading)

(1) Special Initiative: Family Preservation: Improving the Well-Being of Children Planning

Curriculum Development; Community Assessment; Develop a Family Preservation Strategic Plan

Please choose all relevant topics from the selection below:

Relationship and Marriage Education for Adults; Relationship and Marriage Education for Youth; Marriage Enrichment activities and services; Pre-marital education and marriage skills; Relationships Skills; Responsible Fatherhood or Parenting; Family preservation activities offered in a culturally appropriate and traditional manner; Absentee parent services, education and activities; Reduce child/infant abuse and neglect and family domestic violence; Needs of grandparents raising grandchildren; Foster Parent Training Family strengthening services to individuals with substance abuse issues; Public Advertising Campaigns; Research

(2) Special Initiative: Family Preservation: Improving the Well-Being of Children Implementation

Relationship & Marriage Education for Adults; Relationship & Marriage Education for Youth; Marriage Enrichment activities & services; Pre-marital education & marriage skills; Relationships Skills; Responsible Fatherhood; Parenting; Family preservation activities in a culturally appropriate & traditional manner; Absentee parent services, education & activities; Family Domestic Violence;

Grandparents raising grandchildren; Foster Parent Training; Family strengthening services to individuals with substance abuse issues; Public Advertising Campaigns; Research

(3) Native Language Preservation & Maintenance Assessment

Data Collection; Formal Language Assessment; Informal Language Assessment

(4) Native Language Preservation & Maintenance Planning

Plan & design Master/Apprentice programs; Plan & design comprehensive Native language immersion programs for a language nest or survival school; Plan, design & test curriculum for students, parents & language instructors; Plan & design teaching materials; Record, transcribe & archive oral testimony; Plan & design language resource materials using recorded oral testimony; Plan & design multi-media language learning tools; Plan & design teacher certification programs; Train teachers, interpreters or translators of Native languages

(5) Native Language Preservation & Maintenance Implementation

Produce/disseminate culturally relevant printed stories for children using the Native language of the community; Facilitate/encourage intergenerational teaching of Native American language skills; Disseminate culturally relevant materials to teach & enhance the use of Native American languages; Implement an immersion, mentor or distance learning model; Produce, distribute or participate in various media forms to broadcast Native languages; Implement an educational site-based immersion project

(6) Native Language Preservation & Maintenance ImmersionLanguage Nest; Language Survival School

Respondents: Federally Recognized Indian Tribes, Tribal Governments, Native American Non-profits, Tribal Colleges and Universities

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Grant Application Data Summary (GADS)	500	1	0.50	250

Estimated Total Annual Burden Hours: 250.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. *E-mail address: infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: February 11, 2009.

Janean Chambers,

Reports Clearance Officer.

[FR Doc. E9–3240 Filed 2–13–09; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–D–0006]

International Conference on Harmonisation; Draft Guidance on S9 Nonclinical Evaluation for Anticancer Pharmaceuticals; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance entitled ''S9 Nonclinical Evaluation for Anticancer Pharmaceuticals.'' The draft guidance was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The draft guidance provides recommendations for nonclinical studies for the development of pharmaceuticals, including both drugs and biotechnology-derived products, intended to treat patients with advanced cancer. The recommendations describe the type and timing of nonclinical studies to support an investigational new drug application (IND) and the submission of a new drug application (NDA) or biologics license application (BLA). The draft guidance is intended to provide information on internationally accepted recommendations for nonclinical studies to facilitate the development of anticancer pharmaceuticals.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit written or electronic comments on the draft guidance by April 20, 2009.

ADDRESSES: Submit written comments on the draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov.* Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach and Development (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. Send two self-addressed adhesive labels to

assist the office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: *Regarding the guidance*: John K. Leighton, Center for Drug Evaluation and Research (HFD–106), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, rm. 2204, Silver Spring, MD 20993–0002, 301–796–2330; or Mercedes Serabian, Center for Biologics Evaluation and Research (HFM–760), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–5377.

Regarding the ICH: Michelle Limoli, Office of International Programs (HFG–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4480.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labour, and Welfare; the Japanese Pharmaceutical Manufacturers Association; the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA; and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, Health Canada, and the European Free Trade Area.

In November 2008, the ICH Steering Committee agreed that a draft guidance entitled ''S9 Nonclinical Evaluation for Anticancer Pharmaceuticals'' should be made available for public comment. The draft guidance is the product of the Safety Expert Working Group of the ICH. Comments about this draft will be considered by FDA and the Safety Expert Working Group.

The draft guidance provides guidance for nonclinical studies for the development of pharmaceuticals, including both drugs and biotechnology-derived products, intended to treat patients with advanced cancer. The recommendations describe the type and timing of nonclinical studies to support an IND and the submission of an NDA or BLA.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on the draft guidance. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.regulations.gov*, *http://www.fda.gov/cder/guidance/index.htm*, or *http://www.fda.gov/cber/guidelines.htm*.

Dated: February 6, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9–3168 Filed 2–13–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–D–0013]

International Conference on Harmonisation; Draft Guidance on Q4B Evaluation and Recommendation of Pharmacopoeial Texts for Use in the International Conference on Harmonisation Regions; Sterility Test General Chapter; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance entitled ''Q4B Evaluation and Recommendation of Pharmacopoeial Texts for Use in the ICH Regions; Annex 8: Sterility Test General Chapter.'' The draft guidance was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The draft guidance provides the results of the ICH Q4B evaluation of the Sterility Test General Chapter harmonized text from each of the three pharmacopoeias (United States, European, and Japanese) represented by the Pharmacopoeial Discussion Group (PDG). The draft guidance conveys recognition of the three pharmacopoeial methods by the three ICH regulatory regions and provides specific information regarding the recognition. The draft guidance is intended to recognize the interchangeability between the local regional pharmacopoeias, thus avoiding redundant testing in favor of a common testing strategy in each regulatory region. This draft guidance is the eighth annex to the core Q4B guidance, which was made available in the **Federal Register** of February 21, 2008 (73 FR 9575).

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit written or electronic comments on the draft guidance by April 20, 2009.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring,

MD 20993–0002; or the Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. Send two self-addressed adhesive labels to assist the office in processing your requests. Submit written comments on the draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: *Regarding the guidance*: Robert H. King, Sr., Center for Drug Evaluation and Research (HFD–003), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 4150, Silver Spring, MD 20993–0002, 301–796–1242; or Christopher Joneckis, Center for Biologics Evaluation and Research (HFM–25), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–0373.

Regarding the ICH: Michelle Limoli, Office of International Programs (HFG–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4480.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labour, and Welfare; the Japanese Pharmaceutical Manufacturers Association; the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA; and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, Health Canada, and the European Free Trade Area.

In November 2008, the ICH Steering Committee agreed that a draft guidance entitled ''Q4B Evaluation and Recommendation of Pharmacopoeial Texts for Use in the ICH Regions; Annex 8: Sterility Test General Chapter'' should be made available for public comment. The draft guidance is the product of the Q4B Expert Working Group of the ICH. Comments about this draft will be considered by FDA and the Q4B Expert Working Group.

The draft guidance provides the specific evaluation results from the ICH Q4B process for the Sterility Test General Chapter harmonization proposal originating from the three-party PDG. This draft guidance is in the form of an annex to the core ICH Q4B guidance. Once finalized, the annex will provide guidance to assist industry and regulators in the implementation of the specific topic evaluated by the ICH Q4B process.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on the draft guidance. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.regulations.gov*, *http://www.fda.gov/cder/guidance/index.htm*, or *http://www.fda.gov/cber/guidelines.htm*.

Dated: February 6, 2008.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9–3167 Filed 2–13–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–D–0012]

International Conference on Harmonisation; Draft Guidance on Q4B Evaluation and Recommendation of Pharmacopoeial Texts for Use in the International Conference on Harmonisation Regions; Dissolution Test General Chapter; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance entitled ''Q4B Evaluation and Recommendation of Pharmacopoeial Texts for Use in the ICH Regions; Annex 7: Dissolution Test General Chapter.'' The draft guidance was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The draft guidance provides the results of the ICH Q4B evaluation of the Dissolution Test General Chapter harmonized text from each of the three pharmacopoeias (United States, European, and Japanese) represented by the Pharmacopoeial Discussion Group (PDG). The draft guidance conveys recognition of the three pharmacopoeial methods by the three ICH regulatory regions and provides specific information regarding the recognition. The draft guidance is intended to recognize the interchangeability between the local regional pharmacopoeias, thus avoiding

redundant testing in favor of a common testing strategy in each regulatory region. This draft guidance is the seventh annex to the core Q4B guidance, which was made available in the **Federal Register** of February 21, 2008 (73 FR 9575).

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115 (g)(5)), to ensure that the agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit written or electronic comments on the draft guidance by April 20, 2009.

ADDRESSES: Submit written requests for single copies of this draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002; or the Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. Send two self-addressed adhesive labels to assist the office in processing your requests. Submit written comments on the draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT:

Regarding the guidance:Robert H. King, Sr., Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 4150, Silver Spring, MD 20993–0002, 301–796–1242;or

Christopher Joneckis, Center for Biologics Evaluation and Research (HFM–25), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–0373.

Regarding the ICH: Michelle Limoli, Office of International Programs (HFG–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4480.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance entitled ''Q4B Evaluation and Recommendation of Pharmacopoeial Texts for Use in the ICH Regions; Dissolution Test General Chapter.'' In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labour, and Welfare; the Japanese Pharmaceutical Manufacturers Association; the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA; and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, Health Canada, and the European Free Trade Area.

In November 2008, the ICH Steering Committee agreed that a draft guidance entitled ''Q4B Evaluation and Recommendation of Pharmacopoeial Texts for Use in the ICH Regions; Annex 7: Dissolution Test General Chapter'' should be made available for public comment. The draft guidance is the product of the Q4B Expert Working Group of the ICH. Comments about this draft will be considered by FDA and the Q4B Expert Working Group.

The draft guidance provides the specific evaluation results from the ICH Q4B process for the Dissolution Test General Chapter harmonization proposal originating from the three-party PDG. This draft guidance is in the form of an annex to the core ICH Q4B guidance. Once finalized, the annex will provide guidance to assist industry and regulators in the implementation of the specific topic evaluated by the ICH Q4B process.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on Q4B Evaluation and Recommendation of Pharmacopoeial Texts for Use in the ICH Regions; Dissolution Test General Chapter. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.regulations.gov*, *http://www.fda.gov/cder/guidance/index.htm*, or *http://www.fda.gov/cber/guidelines.htm*.

Dated: February 6, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9–3169 Filed 2–13–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–D–0011]

International Conference on Harmonisation; Draft Guidance on Q4B Evaluation and Recommendation of Pharmacopoeial Texts for Use in the International Conference on Harmonisation Regions; Uniformity of Dosage Units General Chapter; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance entitled ''Q4B Evaluation and Recommendation of Pharmacopoeial Texts for Use in the ICH Regions; Annex 6: Uniformity of Dosage Units General Chapter.'' The draft guidance was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The draft guidance provides the results of the ICH Q4B evaluation of the Uniformity of Dosage Units General Chapter harmonized text from each of the three pharmacopoeias (United States, European, and Japanese) represented by the Pharmacopoeial Discussion Group (PDG). The draft guidance conveys recognition of the three pharmacopoeial methods by the three ICH regulatory regions and provides specific information regarding the recognition. The draft guidance is intended to recognize the interchangeability between the local regional pharmacopoeias, thus avoiding redundant testing in favor of a common testing strategy in each regulatory region. This draft guidance is the sixth annex to the core Q4B guidance, which was made available in the **Federal Register** of February 21, 2008 (73 FR 9575).

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115 (g)(5)), to ensure that the agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit written or electronic comments on the draft guidance by April 20, 2009.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002; or the Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448. The draft guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. Send two self-addressed adhesive labels to assist the office in processing your requests. Submit written comments on the draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT:

Regarding the draft guidance: Robert H. King, Sr., Center for Drug Evaluation and Research (HFD–003), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 4150, Silver Spring, MD 20993–0002, 301–796–1242; or Christopher Joneckis, Center for Biologics Evaluation and Research (HFM–25), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–0373.

Regarding the ICH: Michelle Limoli, Office of International Programs (HFG–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4480.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labour, and Welfare; the Japanese Pharmaceutical Manufacturers Association; the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA; and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, Health Canada, and the European Free Trade Area.

In November 2008, the ICH Steering Committee agreed that a draft guidance entitled ''Q4B Evaluation and Recommendation of Pharmacopoeial Texts for Use in the ICH Regions; Annex 6: Uniformity of Dosage Units General Chapter'' should be made available for public comment. The draft guidance is the product of the Q4B Expert Working Group of the ICH. Comments about this draft will be considered by FDA and the Q4B Expert Working Group.

The draft guidance provides the specific evaluation results from the ICH Q4B process for the Uniformity of Dosage Units General Chapter harmonization proposal originating from the three-party PDG. This draft guidance is in the form of an annex to the core ICH Q4B guidance. Once finalized, the annex will provide guidance to assist industry and regulators in the implementation of the specific topic evaluated by the ICH Q4B process.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see

ADDRESSES) written or electronic comments on the draft guidance. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.regulations.gov*, *http://www.fda.gov/cder/guidance/index.htm*, or *http://www.fda.gov/cber/guidelines.htm*.

Dated: February 6, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9–3166 Filed 2–13–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–S–0002]

Phonetic Orthographic Computer Analysis Software Program for Review of Proprietary Drug and Biologic Names; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the source code and supporting technical documentation for the Phonetic Orthographic Computer Analysis (POCA) software program. POCA is an analytic tool designed to help identify drug and biologic names and medical terminology that are phonetically and orthographically similar to one another. POCA is one analytic tool that FDA uses to review proposed proprietary drug and biologic names.

ADDRESSES: Requests for single copies of the POCA software should be submitted to the following e-mail address: *pocasourcecoderequest@fda.hhs.gov*. Communications other than requests for POCA software should be directed to the Division of Medication Error Prevention and Analysis, Center for Drug Evaluation and Research, 10903 New Hampshire Ave. Bldg. 22, Mail Stop 4447, Silver Spring, MD 20993–0002, 301–796–2360.

FOR FURTHER INFORMATION CONTACT: Carol Holquist, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, rm. 4416, Silver Spring, MD 20993–0002, 301–796–2360.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of the source code and supporting technical documentation for the POCA software program, an analytic tool designed to help identify drug and biologic names and medical terminology that are phonetically and orthographically[1] similar to one another. POCA is one analytic tool that FDA uses in its review of proposed proprietary drug and biologic names to help FDA identify proprietary names that look alike or sound alike. FDA is not providing technical support for the software program.

In title I of the Food and Drug Administration Amendments Act of 2007 (Public Law 110–85), Congress reauthorized and expanded the Prescription Drug User Fee Act (PDUFA IV). As part of the PDUFA IV performance goals, FDA agreed to provide the full source code and supporting technical documentation for the POCA tool and make it available on disk for use by industry and others from the general public (see section IX.C.2. at *http://www.fda.gov/oc/pdufa4/pdufa4goals.html*).

The POCA software was produced under a U.S. Government contract, and the United States has unlimited rights in the software. The United States has determined that it is in its best interest to provide it royalty-free to the public to use or modify the software for any purpose. Thus, the software is hereby provided free of any restriction on use or distribution. The software is furthermore provided ''as is'' without warranty of any kind or any guarantee that the software will work for any purpose. Project Performance Corp. developed the software under a U.S. Government contract.

Single copies of the POCA software are available from FDA upon request (see **ADDRESSES**).

[1] Merriam-Webster Online defines the term ''orthography'' in part as: (1) The representation of the sounds of a language by written or printed symbols or (2) a part of language study that deals with letters and spelling. Complete definitions of ''orthography'' and ''orthographic'' are available at *http://www.merriam-webster.com/dictionary.htm*.

Dated: February 6, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9–3170 Filed 2–13–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, March 11, 2009, 8 a.m. to March 12, 2009, 6 p.m., National Cancer Institute/NIH, 6116 Executive Blvd., Room 8053, Rockville, MD 20852 which was published in the **Federal Register** on January 29, 2009, 74FR5170.

The meeting notice is changed to reflect the date change from March 11–12, 2009 to March 18–19, 2009. The meeting is closed to the public.

Dated: February 11, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–3309 Filed 2–13–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Limited Competition for Data Sharing for Demographic Research Infrastructure.

Date: March 2, 2009.
Time: 3 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852, (Telephone Conference Call).
Contact Person: Carla T. Walls, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH,6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 435–6898, *wallsc@mail.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.
(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: February 9, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–3192 Filed 2–13–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Time Perception and Timed Performance in Autism.
Date: March 10, 2009.
Time: 12 p.m. to 1 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852, (Telephone Conference Call).
Contact Person: Carla T. Walls, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 435–6898, *wallsc@mail.nih.gov.*
(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: February 9, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–3195 Filed 2–13–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Chondrocyte Maturation and Chondrodysplasias.
Date: March 11, 2009.
Time: 2 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852 (Telephone Conference Call).
Contact Person: Peter Zelazowski, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Rm. 5B01, Bethesda, MD 20892–7510, 301–435–6902, *peter.zelazowski@nih.gov.*
(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: February 9, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–3212 Filed 2–13–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, March 16, 2009, 8 a.m. to March 17, 2009, 6 pm, Hilton Washington DC North/Gaithersburg, 620 Perry Parkway, Gaithersburg, MD, 20877 which was published in the **Federal Register** on December 17, 2008, 73 FR76669.

This notice is amended to change the date from March 16–17, 2009 to March 10–11, 2009, 6 pm. The meeting is closed to the public.

Dated: February 9, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–3200 Filed 2–13–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, March 26, 2009, 8:30 a.m. to March 26, 2009, 6 p.m., Bethesda Marriott—Pooks Hill, 5151 Pooks Hill Road, Bethesda, MD 20814 which was published in the **Federal Register** on January 12, 2009, 74 FR71219.

This notice is amended to change the Scientific Review Officer from Rhonda J. Moore, PhD to Gerald Lovinger, PhD. The meeting is closed to the public.

Dated: February 9, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–3201 Filed 2–13–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, March 12, 2009, 8:30 a.m. to March 13, 2009, 5 p.m., Bethesda Marriott—Pooks Hill, 5151 Pooks Hill Road, Bethesda, MD, 20814 which was published in the **Federal Register** on January 12, 2009, 74 FR71219.

This notice is amended to change the Scientific Review Officer from Rhonda J. Moore, PhD to Joyce C. Pegues, PhD. The meeting is closed to the public.

Dated: February 9, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–3202 Filed 2–13–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), 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 Cancer Institute Special Emphasis Panel; Development of Molecular Pharmacodynamic Assays for Targeted Therapies.

Date: March 19, 2009.

Time: 10:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6116 Executive Boulevard, Conference Room 611, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Jeannette F. Korczak, PhD, Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd., Room 8115, Bethesda, MD 20892, 301–496–9767, *korczakj@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Affinity Capture Tools and Technology.

Date: March 25, 2009.

Time: 12:01 p.m. to 4 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6116 Executive Boulevard, Room 8018, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Caron Lyman, PhD, Scientific Review Officer, Division of Extramural Activities, Research Programs Review Branch, National Cancer Institute, NIH, 6116 Executive Blvd., Room 8119, Bethesda, MD 20892–8328, 301–451–4761, *lymanc@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Multifunctional Therapeutics Based on Nanotechnology.

Date: April 6–7, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: M Street Renaissance Hotel-Marriott, 1143 New Hampshire Avenue, NW., Washington, DC 20037.

Contact Person: Irina V. Gordienko, PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 7073, Bethesda, MD 20892–8329, 301–594–1566, *gordienkoiv@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 9, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–3211 Filed 2–13–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, March 3, 2009, 9 a.m. to March 3, 2009, 2 p.m., National Institutes of Health, 6116 Executive Blvd., Rockville, MD 20852 which was published in the **Federal Register** on January 12, 2009, 74 FR 71219.

This notice is amended to change the Scientific Review Officer from Rhonda J. Moore, PhD to Marvin L. Salin, PhD. The meeting is closed to the public.

Dated: February 9, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–3237 Filed 2–13–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, March 24, 2009, 8 a.m. to March 24, 2009, 5 p.m., Gaithersburg Hilton, 620 Perry Parkway, Gaithersburg, MD, 20877 which was published in the **Federal Register** on January 29, 2009, 74FR5171.

The meeting notice is changed to reflect the date change from March 24, 2009 to April 2, 2009. The meeting is closed to the public.

Dated: February 10, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–3308 Filed 2–13–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Alternative Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Alternative

Medicine Special Emphasis Panel; Fellowships.

Date: March 24–25, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard,Bethesda, MD 20892,(Virtual Meeting).

Contact Person: Peter Kozel, PhD, Scientific Review Officer, NCCAM, 6707 Democracy Boulevard, Suite 401, Bethesda, MD 20892–5475, 301–496–8004, *kozelp@mail.nih.gov.*

Dated: February 9, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–3198 Filed 2–13–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), 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 Human Genome Research Institute Special Emphasis Panel; Community Consultation.

Date: March 16, 2009.

Time: 2:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, NHGRI Twinbrook Library,Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rudy O. Pozzatti, PhD, Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, 5635 Fishers Lane, Suite 4076, MSC 9306, Rockville, MD 20852, (301) 402–0838, *pozzattr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: February 9, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–3191 Filed 2–13–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory General Medical Sciences Council.

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 Advisory General Medical Sciences Council.

Date: March 4, 2009.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, Room 2AS10, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ann A. Hagan, PhD, Associate Director for Extramural Activities, NIGMS, NIH, DHHS, 45 Center Drive, Room 2AN24H, Bethesda, MD 20892–6200, (301) 594–4499, *hagana@nigms.nih.gov.*

Information is also available on the Institute's/Center's home page:*http://www.nigms.nih.gov/about/advisory_council.html*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: February 9, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–3190 Filed 2–13–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Innate Immune Receptors & Adjuvant Discovery.

Date: March 16–17, 2009.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate contract proposals.

Place: Crowne Plaza Hotel—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Paul A. Amstad, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–496–2550, *pamstad@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 9, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–3193 Filed 2–13–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Smooth Muscle in Diabetes Program Projects.

Date: March 26, 2009.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Carol J. Goter-Robinson, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 748, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7791, *goterrobinsonc@extra.niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 9, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–3196 Filed 2–13–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special EmphasisPanel; Implementation Planning Grants for Educational, Behavioral, or Social Studies for Translation of Genetic Factors in Common Diseases (U34).

Date: March 11, 2009.

Time: 4 p.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard Marriott, 204 Boardwalk Place, Gaithersburg, MD 20878.

Contact Person: Robert Wellner, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK,National Institutes of Health,Room 757, 6707 Democracy Boulevard,Bethesda, MD 20892–5452, *rw175w@nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special EmphasisPanel; Digestive Diseases Centers.

Date: April 13–14, 2009.

Time: 6 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Maria E. Davila-Bloom, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK,National Institutes of Health,Room 758, 6707 Democracy Boulevard,Bethesda, MD 20892–5452, (301) 594–7637, *davila-bloomm@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research;93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research,National Institutes of Health, HHS)

Dated: February 9, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–3197 Filed 2–13–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; Program Project Review.

Date: March 19, 2009.

Time: 11 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Eric H. Brown, Ph.D. Scientific Review Administrator, National Institute of Arthritis and Musculoskeletal and Skin Diseases, 6701 Democracy Blvd., Suite 824, Bethesda, MD 20892, (301) 594–4955, *browneri@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin DiseasesResearch, National Institutes of Health, HHS)

Dated: February 9, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–3205 Filed 2–13–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIDCD.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute on Deafness and Other Communication Disorders, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDCD.

Date: March 27, 2009.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, 5 Research Court, Rockville, MD 20850(Telephone Conference Call).

Contact Person: Robert J. Wenthold, PhD, Director, Division of Intramural Research, National Institute on Deafness and Other Communication Disorders,5 Research Court, Room 2B28, Rockville, MD 20852, 301–402–2829.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: February 10, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–3307 Filed 2–13–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Clinical Trials.

Date: March 12, 2009.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6130 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Christine A. Livingston, PhD, Scientific Review Officer, Division of Extramural Activities, National Institutes of Health/NIDCD, 6120 Executive Blvd.—MSC 7180, Bethesda, MD 20892, (301) 496–8683, *livingsc@mail.nih.gov*.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Clinical Trials.

Date: March 12, 2009.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Christopher Moore, PhD, Scientific Review Officer, Division of Extramural Activities, National Institutes of Health/NIDCD, 6120 Executive Blvd., Rm 400C, Bethesda, MD 20892–7180, 301–402–3587, *moorechristopher@nidcd.nih.gov*.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Clinical Trials.

Date: March 12, 2009.

Time: 12:30 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Susan Sullivan, PhD, Scientific Review Officer, National Institute of Deafness and Other Communication Disorders, 6120 Executive Blvd Ste., 400C, Rockville, MD 20852, 301–496–8683, *sullivas@mail.nih.gov*.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; R03 Chemical Senses Review.

Date: March 17, 2009.

Time: 2:30 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Susan Sullivan, PhD, Scientific Review Officer, National Institute of Deafness and Other Communication Disorders, 6120 Executive Blvd Ste., 400C, Rockville, MD 20852, 301–496–8683, *sullivas@mail.nih.gov*.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; R03 Voice, Speech, Language Review.

Date: March 18, 2009.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Christopher Moore, PhD, Scientific Review Officer, Division of Extramural Activities, National Institutes of Health/NIDCD, 6120 Executive Blvd., Rm 400C, Bethesda, MD 20892–7180, 301–402–3587, *moorechristopher@nidcd.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: February 11, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–3310 Filed 2–13–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Projects for Assistance in Transition from Homelessness (PATH) Program Annual Report (OMB No. 0930–0205)—Revision

The Center for Mental Health Services awards grants each fiscal year to each of the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa,

and the Commonwealth of the Northern Mariana Islands from allotments authorized under the PATH program established by Public Law 101–645, 42 U.S.C. 290cc–21 *et seq.*, the Stewart B. McKinney Homeless Assistance Amendments Act of 1990 (section 521 *et seq.* of the Public Health Service (PHS) Act). Section 522 of the PHS Act requires that the grantee States and Territories must expend their payments under the Act solely for making grants to political subdivisions of the State, and to non-profit private entities (including community-based veterans' organizations and other community organizations) for the purpose of providing services specified in the Act. Available funding is allotted in accordance with the formula provision of section 524 of the PHS Act.

This submission is for a revision of the current approval of the annual grantee reporting requirements. Section 528 of the PHS Act specifies that not later than January 31 of each fiscal year, a funded entity will prepare and submit a report in such form and containing such information as is determined necessary for securing a record and description of the purposes for which amounts received under section 521 were expended during the preceding fiscal year and of the recipients of such amounts and determining whether such amounts were expended in accordance with statutory provisions.

The proposed changes to the PATH Annual Report Survey are as follows:

• Reporting on all persons served with PATH Federal and matching State funds.

Additional Optional Questions:

Table A

• The number of staff persons who are consumers, peer providers, or prosumers supported by PATH federal and State matching funds.

Table C

• The number of Enrolled consumers placed into housing (Transitional, Supportive, or Permanent).

• The number of Enrolled consumers who were assisted with successfully obtaining income benefits (SSI, SSDI, VA, etc.).

• The number of Enrolled consumers who were assisted with successfully obtaining or increasing their earned income (employment).

• The number of Enrolled consumers who were assisted with successfully obtaining medical insurance or coverage plans (Medicaid, Medicare, and/or state/local plans).

• The number of Enrolled consumers who were assisted with successfully obtaining primary medical care.

The estimated annual burden for these reporting requirements is summarized in the table below.

Respondents	Number of respondents	Responses per respondent	Burden per response (hrs.)	Total burden
States	56	1	26	1,456
Local provider agencies	480	1	31	14,880
Totals	506			16,336

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 7–1044, One Choke Cherry Road, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: February 10, 2009.

Elaine Parry,

Director, Office of Program Services.

[FR Doc. E9–3361 Filed 2–13–09; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2009–0008]

The National Infrastructure Advisory Council

AGENCY: Directorate for National Protection and Programs, Department of Homeland Security.

ACTION: Committee Management; Notice of Federal Advisory Council Meeting.

SUMMARY: The National Infrastructure Advisory Council (NIAC) will meet on Tuesday, April 14, 2009 at the J.W. Marriott's Salons I and II, 1331 Pennsylvania Avenue, Washington, DC 20004.

DATES: The National Infrastructure Advisory Council will meet Tuesday, April 14, 2009 from 1:30 p.m. to 4:30 p.m. Please note that the meeting may close early if the committee has completed its business.

For additional information, please consult the NIAC Web site, *http://www.dhs.gov/niac,* or contact Matthew Sickbert by phone at 703–235–2888 or by e-mail at *Matthew.Sickbert@associates.dhs.gov.*

ADDRESSES: The meeting will be held at the J.W. Marriott's Salons I and II, 1331 Pennsylvania Avenue, Washington, DC 20004. While we will be unable to accommodate oral comments from the public, written comments may be sent to Nancy J. Wong, Department of Homeland Security, Directorate for National Protection and Programs, Washington, DC 20528. Written comments should reach the contact person listed no later than April 7, 2009. Comments must be identified by DHS–2009–0008 and may be submitted by *one* of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *E-mail: matthew.sickbert@associates.dhs.gov.* Include the docket number in the subject line of the message.

• *Fax:* 703–235–3055.

• *Mail:* Nancy J. Wong, Department of Homeland Security, Directorate for National Protection and Programs, Washington, DC 20528.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

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

FOR FURTHER INFORMATION CONTACT: Nancy J. Wong, NIAC Designated Federal Officer, Department of Homeland Security, Washington, DC 20528; telephone 703–235–2888.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463). The National Infrastructure Advisory Council shall provide the President through the Secretary of Homeland Security with advice on the security of the critical infrastructure sectors and their information systems.

The National Infrastructure Advisory Council will meet to address issues

relevant to the protection of critical infrastructure as directed by the President. The April 14, 2009 meeting will include a final report from the Frameworks for Dealing with Disasters and Related Interdependencies Working Group and status reports from the Critical Infrastructure Resilience Working Group.

The meeting agenda is as follows:

I. Opening of Meeting	Nancy J. Wong, Designated Federal Officer (DFO), NIAC, Department of Homeland Security (DHS).
II. Roll Call of Members	Nancy J. Wong, DFO, NIAC, DHS.
III. Opening Remarks and Introductions	NIAC Chairman Erle A. Nye, Chairman Emeritus, TXU Corp.
Participating but not Expected to Make Remarks	Janet Napolitano, Secretary, DHS (invited).
	James L. Snyder, Acting Assistant Secretary for Infrastructure Protection, DHS (invited).
	Jason Brown, Senior Director for Cyber Security and Information Sharing, Homeland Security Council (invited).
IV. Approval of January 2009 Minutes	NIAC Chairman Erle A. Nye, Presiding.
V. Working Group Final Presentation	NIAC Chairman Erle A. Nye, Presiding.
A. The Frameworks for Dealing with Disasters and Related Interdependencies Working Group.	Edmund G. Archuleta, President and CEO, El Paso Water Utilities, NIAC Member; James B. Nicholson, Chairman and CEO, PVS Chemicals, Inc., NIAC Member; and The Honorable Tim Pawlenty, Governor, The State of Minnesota, NIAC Member.
VI. Working Group Status Update	NIAC Chairman Erle A. Nye, Presiding.
A. The Critical Infrastructure Resilience Working Group	Wesley Bush, President and COO, Northrop Grumman, NIAC Member; and Margaret E. Grayson, (former) President, Coalescent Technologies, Inc., NIAC Member.
VII. New Business	NIAC Chairman Erle A. Nye, Vice Chairman; Alfred R. Berkeley III, NIAC Members.
VIII. Closing Remarks	James L. Snyder, Acting Assistant Secretary for Infrastructure Protection, DHS (invited).
IX. Adjournment	NIAC Chairman Erle A. Nye, Presiding.

Procedural

While this meeting is open to the public, participation in The National Infrastructure Advisory Council deliberations is limited to committee members, Department of Homeland Security officials, and persons invited to attend the meeting for special presentations.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the NIAC Secretariat at 703–235–2888 as soon as possible.

Dated: February 3, 2009.

Nancy J. Wong,

Designated Federal Officer for the NIAC.

[FR Doc. E9–3180 Filed 2–13–09; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2009–0005]

The Critical Infrastructure Partnership Advisory Council (CIPAC)

AGENCY: Directorate for National Protection and Programs, DHS.

ACTION: Update of CIPAC council membership.

SUMMARY: The Department of Homeland Security (DHS) announced the establishment of the Critical Infrastructure Partnership Advisory Council (CIPAC) by notice published in the **Federal Register** on March 24, 2006. That notice identified the purpose of CIPAC as well as its membership. This notice provides (i) the quarterly CIPAC membership update, (ii) instructions on how the public can obtain the CIPAC membership roster and other information on the Council, and (iii) information on recently completed CIPAC meetings.

FOR FURTHER INFORMATION CONTACT: Nancy Wong, Director Partnership Programs and Information Sharing Office, Partnership and Outreach Division, Office of Infrastructure Protection, National Protection and Programs Directorate, United States Department of Homeland Security, Washington, DC 20528, telephone (703) 235–3999 or via e-mail at *CIPAC@dhs.gov.*

Responsible DHS Official: Nancy J. Wong, Director Partnership Programs and Information Sharing Office, Partnership and Outreach Division, Office of Infrastructure Protection, National Protection and Programs Directorate, United States Department of Homeland Security, Washington, DC 20528, telephone (703) 235–3999 or via e-mail at *CIPAC@dhs.gov.*

SUPPLEMENTARY INFORMATION: *Purpose and Activity:* CIPAC facilitates interaction between government officials and representatives of the community of owners and/or operators for each of the critical infrastructure or key resource (CIKR) sectors defined by Homeland Security Presidential Directive 7 (HSPD–7) and identified in the National Infrastructure Protection Plan (NIPP). The scope of activities covered by CIPAC includes planning; coordinating among government and CIKR owner/operator security partners; implementing security program initiatives; conducting operational activities related to critical infrastructure protection security measures, incident response, recovery, infrastructure resilience, reconstituting CIKR assets and systems for both man-made as well as naturally occurring events; and sharing threat, vulnerability, risk mitigation, and infrastructure continuity information and best practices.

Organizational Structure: CIPAC members are organized into eighteen HSPD–7 critical infrastructure and/or key resource sectors. Within all of the sectors containing private sector CIKR owners/operators there generally exists a Sector Coordinating Council (SCC) that includes CIKR owners and/or operators or their representative trade associations. Each of the sectors also has a Government Coordinating Council (GCC) whose membership includes a lead Federal agency that is defined as the Sector Specific Agency (SSA), and all of the relevant Federal, State, local, Tribal, and/or Territorial government agencies (or their representative bodies) whose mission interests also involve the scope of the CIPAC activities for that particular sector.

CIPAC Membership: CIPAC Membership includes (i) CIKR owner and/or operator members of an SCC; (ii) trade association members who are members of a SCC representing the interests of CIKR owners and/or operators. CIKR owners and operators own and invest in infrastructure assets or in the systems and processes to secure them. CIKR owners and/or operators are held responsible by the public for CIKR operations and the response and recovery when their CIKR assets and systems are disrupted; (iii) each sector's Government Coordinating Council (GCC); and, based upon DHS' recent establishment of this council; (iv) State, local, Tribal, and Territorial governmental officials comprising the DHS State, Local, Tribal, Territorial GCC.

CIPAC Membership Roster and Council Information: The current roster of CIPAC membership is published on the CIPAC Web site (*http://www.dhs.gov/cipac*) and is updated as the CIPAC membership changes. Members of the public may visit the CIPAC Web site at any time to obtain current CIPAC membership as well as the current and historic list of CIPAC meetings and agendas.

Dated: February 2, 2009.

Nancy Wong,

Designated Federal Officer for the CIPAC.

[FR Doc. E9–3337 Filed 2–13–09; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2009–0093]

Announcement of Public Meeting Regarding the Ambassador Bridge Enhancement Project, Detroit River, Detroit, MI and Windsor, ON, Canada

AGENCY: Coast Guard, DHS.

ACTION: Notice of public meeting.

SUMMARY: The United States Coast Guard (USCG), as lead federal agency under the National Environmental Policy Act, will hold a public meeting for citizens to provide oral comments relating to the Ambassador Bridge Enhancement Project (ABEP) across the Detroit River between Detroit, MI and Windsor, ON, Canada. The project entails construction of a companion bridge adjacent to the existing Ambassador Bridge. This meeting will serve to update the public on the USCG coordination efforts with other expert agencies that have occurred since the ABEP draft Environmental Assessment was published for comment in May 2007. The meeting will be open to the public.

DATES: The meeting will be held on March 17, 2009, from 6 p.m. to 8 p.m. If you would like to submit written materials as part of the meeting record or request to make an oral presentation at the meeting please provide your information to the Docket Management Facility no later than March 12, 2009. All comments you wish to incorporate as part of the meeting record must be received by March 23, 2009.

ADDRESSES: The meeting will be held at the Earhart Middle School located at 1000 Scotten Street, Detroit, Michigan 48209.

You may send written material, comments and requests to make oral presentation and all other comments and materials, under the Coast Guard docket number USCG–2009–0093, to the Docket Management Facility at the U.S. Department of Transportation using any one of the following methods:

(1) *Federal eRulemaking Portal*: *http://www.regulations.gov.*

(2) *Fax*: 202–493–2251.

(3) *Mail*: Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery*: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. Our online docket for this meeting is available on the Internet at *http://www.regulations.gov* under docket number USCG–2009–0093.

FOR FURTHER INFORMATION CONTACT: If you have questions regarding this notice call Ms. Hala Elgaaly, Administrator, Bridge Program, 202–372–1511. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Background

On July 13, 2006, the Detroit International Bridge Company submitted a bridge permit application to the USCG for construction of a new companion bridge adjacent to the existing Ambassador Bridge between Detroit, MI and Windsor, ON, Canada. The new bridge will provide six lanes of travel, three in each direction. One lane in each direction will be dedicated to low-risk commercial traffic and the other lanes will be open to general automobile and commercial traffic. The existing bridge, which is approximately 80 years old, will be closed to general traffic and used in the event of an emergency that results in the new bridge becoming unavailable, as well as for official government vehicles, bridge company vehicles, and special occasions. A draft Environmental Assessment was issued by the USCG for this project in May 2007. Since May 2007, substantial coordination has taken place with other expert agencies including, but not limited to, the Environmental Protection Agency, the Federal Highway Administration, the Advisory Council on Historic Preservation, Transport Canada, the Canadian Environmental Assessment Agency, representatives from the Michigan State Legislature, Michigan State Historic Preservation Office, the Southeast Michigan Council of Governments, and the Michigan Department of Transportation. As a result of this coordination, a Memorandum of Agreement pursuant to Section 106 of the National Historic Preservation Act has been executed and a Final Environmental Assessment/Draft Finding of No Significant Impact has been prepared.

The meeting is being held at the request of Congressman John Dingell, Michigan's 15th District Representative, to update the public on the proposed project, the environmental document and the USCG bridge permitting process.

You may view all written material and comments submitted for the meeting record in our online docket by going to *http://www.regulations.gov.* Once there, select the Advanced Docket Search option on the right side of the screen, insert USCG–2009–0093 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

We encourage you to participate in this meeting by submitting oral or written comments and any related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include

any personal information you have provided.

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

Procedural

The meeting is open to the public. Attendees at the meeting, who wish to present testimony and have not previously made a request to do so, will follow those having submitted a request, as time permits. All oral presentations will be limited to three minutes. The public meeting may end early if all present wishing to speak have done so. A stenographer will be present to record this meeting. We will provide a copy of the meeting transcript and any additional relevant material obtained at the meeting to the docket.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section as soon as possible.

Dated: February 11, 2009.

Hala Elgaaly,

Administrator, Bridge Program, U.S. Coast Guard, By direction of the Commandant.

[FR Doc. E9–3324 Filed 2–13–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2009–0001]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; 60-day notice and request for comments; Revision of a currently approved collection; OMB No. 1660–0006; FEMA Form 086–0–1, Flood Insurance Application, FEMA Form 086–0–2, Flood Insurance Cancellation/Nullification Request Form, FEMA Form 086–0–3, Flood Insurance General Change Endorsement, FEMA Form 086–0–5, Flood Insurance Preferred Risk Policy Application, FEMA Form 086–0–4, V–Zone Risk Factor Rating Form and Instructions.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this Notice seeks comments concerning the application process for property owners to obtain insurance coverage under the National Flood Insurance Program (NFIP).

DATES: Comments must be submitted on or before April 20, 2009.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online*. Submit comments at *http://www.regulations.gov* under docket ID FEMA–2009–0001. Follow the instructions for submitting comments.

(2) *Mail*. Submit written comments to Office of Management, Records Management Division, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472–3100.

(3) *Facsimile*. Submit comments to (703) 483–2999.

(4) *E-mail*. Submit comments to *FEMA-POLICY@dhs.gov*. Include docket ID FEMA–2009–0001 in the subject line.

All submissions received must include the agency name and docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov*, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available on the Privacy and Use Notice link on the Administration Navigation Bar of *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Contact Mary Ann Chang, Mitigation Directorate, FEMA, 703–605–0421 for additional information. You may contact the Records Management Branch for copies of the proposed collection of information at facsimile number (202) 646–3347 or e-mail address: *FEMA-Information-Collections@dhs.gov*.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP) is authorized by Public Law 90–448 (1968) and expanded by Public Law 93–234 (1973). The National Flood Insurance Act of 1968 requires that the Federal Emergency Management Agency (FEMA) provided flood insurance at full actuarial rates reflecting the complete flood risk to structures built or substantially improved on or after the effective date for the initial Flood Insurance Rate Map (FIRM) for the community, or after December 31, 1974, whichever is later, so that the risks associated with buildings in flood-prone areas are borne by those located in such areas and not by the taxpayers at large. In accordance with Public Law 93–234, the purchase of flood insurance is mandatory when Federal or federally related financial assistance is being provided for acquisition or construction of buildings located, or to be located, within FEMA-identified special flood hazard areas of communities that are participating in the NFIP.

Collection of Information

Title: National Flood Insurance Program Policy Forms.

Type of Information Collection: Revision of a currently approved collection.

OMB Number: 1660–0006.

Form Titles and Numbers: FEMA Form 086–0–1, Flood Insurance Application, FEMA Form 086–0–2, Flood Insurance Cancellation/Nullification Request Form, FEMA Form 086–0–3, Flood Insurance General Change Endorsement, FEMA Form 086–0–5, Flood Insurance Preferred Risk Policy Application, FEMA Form 086–0–4, V–Zone Risk Factor Rating Form and Instructions.

Abstract: In order to provide for the availability of policies for flood insurance, policies are marketed through the facilities of licensed insurance agents or brokers in the various States. Applications from agents or brokers are forwarded to a servicing company designated as fiscal agent by FIA. Upon receipt and examination of the application and required premium, the servicing company issues the appropriate Federal flood insurance policy.

Affected Public: Individual and Households, Business or other for-profit, Farms, State, Local or Tribal Government.

Estimated Total Annual Burden Hours: 9,480.58 hours.

TABLE A.12 ESTIMATED ANNUALIZED BURDEN HOURS AND COSTS

Type of respondent	Form name/form number	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden (in hours)	Average hourly wage rate	Total annual respondent cost
Individual and Household, Business or other for profit, Not-for-profit institutions, Farms, State, Local or Tribal Government (Property Owner).	Flood Insurance Application/ FEMA Form 086–0–1.	5,859	1	.2 (12 Minutes) ..	1,171.8 (70,308 Minutes).	$19.56	$22,920.41
Individual and Household, Business or other for profit, Not-for-profit institutions, Farms, State, Local or Tribal Government (Property Owner).	Flood Insurance Cancellation/ Nullification Request Form/ FEMA Form 086–0–2.	2,958	1	.125 (7.5 Minutes).	369.75 (22,185 Minutes).	19.56	7,232.31
Individual and Household, Business or other for profit, Not-for-profit institutions, Farms, State, Local or Tribal Government (Property Owner).	Flood Insurance General Change Endorsement/ FEMA Form 086–0–3.	19,920	1	.15 (9 Minutes) ..	2,988 (179,280 Minutes).	19.56	58,445.28
Individual and Household, Business or other for profit, Not-for-profit institutions, Farms, State, Local or Tribal Government (Property Owner).	Flood Insurance Preferred Risk Application/ FEMA Form 086–0–5.	1,090	1	.133 (8 Minutes)	145.33 (8,720 Minutes).	19.56	2,842.72
Individual and Household, Business or other for profit, Not-for-profit institutions, Farms, State, Local or Tribal Government (Property Owner).	Renewal Premium Notice/ No Form.	93,514	1	.05 (3 Minutes) ..	4,675.7 (280,542 Minutes).	19.56	91,456.69
Business or other for profit (Surveyors).	V–Zone Risk Factor Rating Form and Instructions/ FEMA Form 086–0–4 (including reference to the Coastal Construction Manual CD).	20	1	6.5 (390 Minutes).	130 (7,800 Minutes).	33.11	4,304.30
Total	.....	123,361	.....	.....	9,480.58	.....	187,201.71

Estimated Cost: The estimated annualized cost to respondents based on wage rate categories is $187,201.71. The estimated annual cost to respondents resulting from the contracting out of information collection services for FEMA Form 81–25 is $13,000. The estimated annual cost to the Federal Government is $6,520,346.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) 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.

Larry Gray,

Director, Records Management Division,Office of Management, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E9–3172 Filed 2–13–09; 8:45 am]

BILLING CODE 9111–52–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1817–DR; Docket ID FEMA–2008–0018]

Washington; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Washington (FEMA–1817–DR), dated January 30, 2009, and related determinations.

DATES: *Effective Date:* January 30, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 30, 2009, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Washington resulting from a severe winter storm, landslides, mudslides, and flooding during the period of January 6–16, 2009, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Washington.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs. If Public Assistance is later requested and warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Willie G. Nunn, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Washington have been designated as adversely affected by this major disaster:

King, Lewis, Mason, Pacific, Pierce, Snohomish, Thurston, and Wahkiakum Counties for Individual Assistance.

All counties within the State of Washington are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–3331 Filed 2–13–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1763–DR; Docket ID FEMA–2008–0018]

Iowa; Amendment No. 22 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Iowa (FEMA–1763–DR), dated May 27, 2008, and related determinations.

DATES: *Effective Date:* January 29, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Michael L. Parker, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

This action terminates my appointment of William L. Vogel as Federal Coordinating Officer for this disaster.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially

Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–3334 Filed 2–13–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1791–DR; Docket ID FEMA–2008–0018]

Texas; Amendment No. 15 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Texas (FEMA–1791–DR), dated September 13, 2008, and related determinations.

DATES: *Effective Date:* February 4, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Bradley Harris, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

This action terminates my appointment of Stephen M. DeBlasio, Sr., as Federal Coordinating Officer for this disaster.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–3328 Filed 2–13–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1817–DR; Docket ID FEMA–2008–0018]

Washington; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Washington (FEMA–1817–DR), datedJanuary 30, 2009, and related determinations.

DATES: *Effective Date:* February 11, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Washington is hereby amended to include the Public Assistance program in the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of January 30, 2009.

Chelan, Columbia, Garfield, Jefferson, Klickitat, Lincoln, Skamania, and Yakima Counties for Public Assistance.

Clallam, Cowlitz, Grays Harbor, King, Kittitas, Lewis, Mason, Pacific, Pierce, Skagit, Snohomish, Thurston, Wahkiakum, and Whatcom Counties for Public Assistance (already designated for Individual Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–3327 Filed 2–13–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1817–DR; Docket ID FEMA–2008–0018]

Washington; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Washington (FEMA–1817–DR), datedJanuary 30, 2009, and related determinations.

DATES: *Effective Date:* February 6, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Washington is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of January 30, 2009.

Benton, Clallam, Cowlitz, Grays Harbor, Kittitas, Skagit, and Whatcom Counties for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance

(Presidentially Declared Disasters);97.039, Hazard Mitigation Grant.)

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–3329 Filed 2–13–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3301–EM; Docket ID FEMA–2008–0018]

Arkansas; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of Arkansas (FEMA–3301–EM), dated January 28, 2009, and related determinations.

DATES: *Effective Date:* January 28, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 28, 2009, the President issued an emergency declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the emergency conditions in certain areas of the State of Arkansas resulting from a severe winter storm beginning on January 26, 2009, and continuing, of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act). Therefore, I declare that such an emergency exists in the State of Arkansas.

You are authorized to provide appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act, to save lives and to protect property and public health and safety, and to lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to provide assistance for debris removal and emergency protective measures (Category B), limited to direct Federal assistance, under the Public Assistance program. This assistance excludes regular time costs for subgrantees' regular employees. In addition, you are authorized to provide such other forms of assistance under Title V of the Stafford Act as you may deem appropriate.

Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal emergency assistance and administrative expenses.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, Department of Homeland Security, under Executive Order 12148, as amended, W. Michael Moore, of FEMA is appointed to act as the Federal Coordinating Officer for this declared emergency.

The following areas of the State of Arkansas have been designated as adversely affected by this declared emergency:

Baxter, Benton, Boone, Carroll, Clay, Cleburne, Conway, Craighead, Crawford, Crittenden, Cross, Faulkner, Franklin, Fulton, Garland, Greene, Independence, Izard, Jackson, Johnson, Lawrence, Logan, Lonoke, Madison, Marion, Mississippi, Monroe, Montgomery, Newton, Perry, Poinsett, Polk, Pope, Prairie, Pulaski, Randolph, St. Francis, Saline, Scott, Searcy, Sebastian, Sharp, Stone, Van Buren, Washington, White, Woodruff, and Yell Counties for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–3333 Filed 2–13–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3302–EM; Docket ID FEMA–2008–0018]

Kentucky; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the Commonwealth of Kentucky (FEMA–3302–EM), dated January 28, 2009, and related determinations.

DATES: *Effective Date:* January 28, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 28, 2009, the President issued an emergency declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the emergency conditions in certain areas of the Commonwealth of Kentucky resulting from a severe winter storm beginning on January 27, 2009, and continuing, are of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act). Therefore, I declare that such an emergency exists in the Commonwealth of Kentucky.

You are authorized to provide appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act, to save lives and to protect property and public health and safety, and to lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to provide assistance for emergency protective measures (Category B), limited to direct Federal assistance, under the Public Assistance program. This assistance excludes regular time costs for subgrantees' regular employees. In addition, you are authorized to provide such other forms of assistance under Title V of the Stafford Act as you may deem appropriate.

Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as

you find necessary for Federal emergency assistance and administrative expenses.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, Department of Homeland Security, under Executive Order 12148, as amended, Kim R. Kadesch, of FEMA is appointed to act as the Federal Coordinating Officer for this declared emergency.

The following areas of the Commonwealth of Kentucky have been designated as adversely affected by this declared emergency:

Allen, Anderson, Barren, Bath, Boyd, Boyle, Breathitt, Breckinridge, Butler, Caldwell, Calloway, Carlisle, Clark, Crittenden, Daviess, Edmonson, Elliott, Estill, Fayette, Floyd, Fulton, Garrard, Graves, Grayson, Hardin, Harrison, Hart, Hickman, Hopkins, Jackson, Jessamine, Johnson, Larue, Lincoln, Logan, Lyon, Madison, Magoffin, Marion, Marshall, Mason, McCracken, Meade, Mercer, Metcalfe, Morgan, Muhlenberg, Nelson, Nicholas, Ohio, Owsley, Perry, Powell, Shelby, Todd, Trigg, Union, Washington, Webster, Wolfe, and Woodford Counties for emergency protective measures (Category B), limited to direct Federal assistance, under the Public Assistance program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–3336 Filed 2–13–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3303–EM; Docket ID FEMA–2008–0018]

Missouri; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of Missouri (FEMA–3303–EM), dated January 30, 2009, and related determinations.

DATES: *Effective Date:* January 30, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 30, 2009, the President issued an emergency declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the emergency conditions in certain areas of the State of Missouri resulting from a severe winter storm beginning on January 26, 2009, and continuing, are of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5207 (the Stafford Act). Therefore, I declare that such an emergency exists in the State of Missouri.

You are authorized to provide appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act, to save lives and to protect property and public health and safety, and to lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to provide assistance for debris removal and emergency protective measures (Category B), limited to direct Federal assistance, under the Public Assistance program. This assistance excludes regular time costs for subgrantees' regular employees. In addition, you are authorized to provide such other forms of assistance under Title V of the Stafford Act as you may deem appropriate.

Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal emergency assistance and administrative expenses.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, Department of Homeland Security, under Executive Order 12148, as amended, Thomas A. Hall, of FEMA is appointed to act as the Federal Coordinating Officer for this declared emergency.

The following areas of the State of Missouri have been designated as adversely affected by this declared emergency:

All 114 Missouri Counties and the Independent City of St. Louis for emergency protective measures (Category B), limited to direct Federal assistance, under the Public Assistance program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–3332 Filed 2–13–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3301–EM; Docket ID FEMA–2008–0018]

Arkansas; Amendment No. 1 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of Arkansas (FEMA–3301–EM), dated January 28, 2009, and related determinations.

DATES: *Effective Date:* January 30, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance

Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this emergency is closed effective January 30, 2009.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant).

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–3321 Filed 2–13–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3302–EM; Docket ID FEMA–2008–0018]

Kentucky; Amendment No. 1 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the Commonwealth of Kentucky (FEMA–3302–EM), dated January 28, 2009, and related determinations.

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

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of an emergency declaration for the Commonwealth of Kentucky is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared an emergency by the President in his declaration of January 28, 2009.

Ballard, Bourbon, Bullitt, Campbell, Carroll, Carter, Christian, Clay, Fleming, Franklin, Grant, Green, Greenup, Hancock, Henderson, Jefferson, Lawrence, Lee, Lewis, Livingston, Martin, Mclean, Menifee, Montgomery, Oldham, Owen, Pendleton, Rowan, Robertson, Scott, Spencer, and Warren Counties for emergency protective measures (Category B), limited to direct Federal assistance, under the Public Assistance program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters);97.039, Hazard Mitigation Grant.)

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–3335 Filed 2–13–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3298–EM; Docket ID FEMA–2008–0018]

Maine; Amendment No. 1 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of Maine (FEMA–3298–EM), dated December 15, 2008, and related determinations.

DATES: *Effective Date:* December 29, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this emergency is closed effective December 29, 2008.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–3330 Filed 2–13–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5285–N–03]

Notice of Proposed InformationCollection: Comment Request; Builder's Certification of Plans, Specifications, and Site

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comment Due Date: April 20, 2009.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Lillian Deitzer, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410; e-mail *Lillian_L._Deitzer@HUD.gov* or telephone (202) 402–8048.

FOR FURTHER INFORMATION CONTACT: Margaret Burns, Contact, Director, Office of Single Family Program Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–2121 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed

information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Builder's Certification of Plans, Specifications, and Site.

OMB Control Number, if applicable: 2502–0496.

Description of the need for the information and proposed use: HUD requires the builder to complete the certification (form HUD–92541) noting adverse site/location factor(s) of the property, including Floodplains. This certification is necessary so that HUD does not insure a mortgage on property that poses a risk to health or safety of the occupant.

Agency form numbers, if applicable: HUD–92541.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The number of burden hours is 15,744. The number of respondents is 10,614, the number of responses is 12.36, the frequency of response is on occasion, and the burden hour per response is .16.

Status of the proposed information collection: Currently approved.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: February 6, 2009.

Ronald Y. Spraker,

Acting General Deputy Assistant, Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. E9–3185 Filed 2–13–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5285–N–04]

Notice of Proposed Information Collection: Comment Request; Request for Acceptance of Changes in Approved Drawings and Specifications

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* April 20, 2009.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Lillian Deitzer, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410; e-mail *Lillian_L._Deitzer@HUD.gov* or telephone (202) 402–8048.

FOR FURTHER INFORMATION CONTACT: Margaret E. Burns Program Contact, Director, Office of Single Family Program Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–2121 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Changes in Approved Drawings and Specifications.

OMB Control Number, if applicable: 2502–NEW.

Description of the need for the information and proposed use: Builders who request changes to HUD's accepted drawings and specifications for proposed construction properties as required by homebuyers or determined by the builder use the information collection. The lender reviews the changes and amends the approved exhibits. These changes may affect the value shown on the DUD commitment. HUD requires the builder to use form HUD–92577 to request changes for proposed construction properties. HUD's collection of this information is for the purpose of ascertaining that HUD does not insure a mortgage on property that poses a risk to health or safety of the occupant.

Agency form numbers, if applicable: HUD–92577

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The number of burden hours is 5,000. The number of respondents is 10,000, the number of responses is 1, the frequency of response is on occasion, and the burden hour per response is .50.

Status of the proposed information collection: This is an extension of a currently approved collection

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: February 6, 2009.

Ronald Y. Spraker,

Acting General Deputy Assistant Secretary for Housing, Deputy Federal Housing Commissioner.

[FR Doc. E9–3187 Filed 2–13–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5196–N–03]

Announcement of Funding Awards for the Section 4 Capacity Building for Community Development and Affordable Housing Program; Fiscal Year 2008

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the 2008 Notice of Funding Availability (NOFA) for the Section 4 Capacity Building for Community Development and Affordable Housing grants program. This announcement contains the names of the awardees and the amounts of the awards made available by HUD.

FOR FURTHER INFORMATION CONTACT: Karen E. Daly, Director, Office of Policy Development and Coordination, Office of Community Planning and Development, 451 Seventh Street, SW., Room 7240, Washington, DC 20410–7000; telephone (202) 402–5552 (this is not a toll-free number). Hearing- and speech-impaired persons may access this number via TTY by calling the Federal Relay Service toll-free at (800) 877–8339. For general information on this and other HUD programs, call Community Connections at (800) 998–9999 or visit the HUD Web site at *http://www.hud.gov.*

SUPPLEMENTARY INFORMATION: HUD's Capacity Building for Community Development and Affordable Housing program is authorized by Section 4 of the HUD Demonstration Act of 1993 (Pub. L. 103–120, 107 Stat. 1148, 42 U.S.C. 9816 note), as amended, and the Revised Continuing Appropriations Resolution, 2007 (Pub. L. 109–289, division B, as amended by Pub. L. 109–369 and 109–383). The Section 4 Capacity Building program provides grants to national community development intermediaries to enhance the capacity and ability of community development corporations and community housing development organizations to carry out community development and affordable housing activities that benefit low-income families and persons. Capacity Building funds support activities such as training, education, support, loans, grants, and development assistance.

The Fiscal Year 2008 competition was announced in the **Federal Register** on April 9, 2008 (73 FR 19380) and amended on June 18, 2008 (73 FR 34778). The NOFA allowed for approximately $36.95 million for Section 4 Capacity Building grants. This amount included $33.5 million from the 2008 appropriation and $3.45 million carried over from the 2007 NOFA competition. However, due to the 2008 Appropriations Act, HUD was asked to rescind the $3.45 million of carryover funds. As a result, $33.5 million was ultimately available for the competition. Applications were rated and selected for funding on the basis of selection criteria contained in that Notice. For the Fiscal Year 2008 competition, HUD awarded three competitive Section 4 Capacity Building grants totaling $33,500,000.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the grantees and the amounts of the awards in Appendix A to this document.

Dated: January 22, 2009.

Nelson R. Bregón,

General Deputy Assistant Secretary for Community Planning and Development.

Appendix A

Fiscal Year 2008 Funding Awards for the Section 4 Capacity Building for Community Development and Affordable Housing Program

Recipient	State	Amount
Enterprise Community Partners, Inc.	MD	$13,440,120
Local Initiatives Support Corporation	NY	13,677,191
Habitat for Humanity International	GA	6,382,689
Total:		33,500,000

[FR Doc. E9–3210 Filed 2–13–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Central Utah Project Completion Act

AGENCIES: Department of the Interior, Office of the Assistant Secretary—Water and Science.

ACTION: Notice of Availability of the Finding of No Significant Impact associated with the Environmental Assessment for the Block Notice 1A Francis Sub-Area Municipal and Industrial Water Conversion.

SUMMARY: On December 24, 2008, the Department of the Interior (Interior), signed a Finding of No Significant Impact (FONSI) which documents the selection of the Proposed Action as presented in the Final Environmental Assessment (EA) for the Block Notice 1A Francis Sub-Area Municipal and Industrial (M&I) Water Conversion. Interior has determined that implementing the Proposed Action described in the EA will not have a significant impact on the quality of the human environment and that an environmental impact statement is not required.

The proposed action consists of conversion of Central Utah Project (CUP) Bonneville Unit water, delivered under Development Block Notice No. 1A to the Francis Sub-Area, from irrigation to municipal and industrial use, and to expand the area to which the project water may be delivered (Expanded Francis Sub-Area). The conversion will be limited to 3,000 acre-feet of irrigation water that has been delivered to agricultural tracts that have been deemed irrigable under Bureau of Reclamation (Reclamation) law and policy. The irrigation water would be converted incrementally to M&I use over a period of up to 25 years. The Expanded Francis Sub-Area would be restricted to lands within the District boundary, in the upper Provo River drainage, upstream of Jordanelle Reservoir.

The proposed action is an administrative procedure that will allow the available Bonneville Unit water to be utilized for M&I purposes as the Francis Sub-Area becomes more residential. All water supply commitments to the existing agricultural irrigation will continue to be met.

FOR FURTHER INFORMATION CONTACT: Additional information pertaining to this action may be obtained by contacting Mr. Lee Baxter, Program Coordinator, Central Utah Project Completion Act Office, 302 East 1860 South, Provo, Utah 84606, by calling (801) 379–1174, or e-mail at *lbaxter@uc.usbr.gov.*

Dated: February 11, 2009.

Reed R. Murray,

Program Director, Central Utah Project Completion Act, Department of the Interior.

[FR Doc. E9–3357 Filed 2–13–09; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R7-SM-2009-N0035] [70101-1261-0000-L6]

Information Collection Sent to the Office of Management and Budget (OMB) for Approval; OMB Control Number 1018-0120; Federal Subsistence Regional Advisory Council Membership Application/ Nomination and Interview Forms

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (Fish and Wildlife Service) have sent an Information Collection Request (ICR) to OMB for review and approval. The ICR, which is summarized below, describes the nature of the collection and the estimated burden and cost. This ICR is scheduled to expire on March 31, 2009. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. However, under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB.

DATES: You must send comments on or before March 19, 2009.

ADDRESSES: Send your comments and suggestions on this ICR to the Desk Officer for the Department of the Interior at OMB-OIRA at (202) 395-6566 (fax) or OIRA_DOCKET@OMB.eop.gov (e-mail). Please provide a copy of your comments to Hope Grey, Information Collection Clearance Officer, Fish and Wildlife Service, MS 222-ARLSQ, 4401 North Fairfax Drive, Arlington, VA 22203 (mail) or hope_grey@fws.gov (e-mail).

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Hope Grey by mail or e-mail (see ADDRESSES) or by telephone at (703) 358–2482.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 1018-0120.

Title: Federal Subsistence Regional Advisory Council Membership Application/Nomination and Interview Forms.

Service Form Number(s): FWS Forms 3-2321, 3-2322, and 3-2323.

Type of Request: Extension of currently approved collection.

Affected Public: Alaska residents.

Respondent's Obligation: For applicants and persons nominating someone for council membership, response is required to obtain or retain a benefit. For references and key contacts, response is voluntary.

Frequency of Collection: On occasion.

Activity	Number of annual respondents	Number of annual responses	Completion time per response	Annual burden hours
FWS Form 3-2321	75	75	2 hours	150
FWS Form 3-2322	75	75	30 minutes	38
FWS Form 3-2323	250	250	15 minutes	62
Totals	400	400		250

Abstract: Title VIII of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101) designates the Departments of the Interior and Agriculture as the key agencies responsible for implementing the subsistence priority on Federal public lands for rural Alaska residents. These responsibilities include the establishment of Regional Councils with members from each region who are knowledgeable about the region and subsistence uses of the public lands. One-third of the seats on the Regional Councils become vacant each year. Additional vacancies may occur due to resignations or deaths of sitting members.

Each person desiring to serve on a Regional Council must complete FWS Form 3-2321 (Federal Subsistence Regional Advisory Council Membership Application/Nomination). Persons nominating other individuals for membership also complete this form. Applicants must provide three references and information on:

(1) Their knowledge of fish and wildlife resources as well as subsistence and other uses of the resources.

(2) Their service on working groups, conservation committees, etc.

(3) How they would represent the people in the region.

(4) Their willingness to travel and attend meetings.

Federal staff use FWS Form 3-2322 (Regional Advisory Council Candidate Interview) to conduct applicant interviews by telephone. Respondents do not see the printed form. Interviewers ask applicants:

(1) About their willingness to serve on the Regional Council, and

(2) To explain information provided on FWS Form 3-2321.

Federal staff use FWS Form 3-2323 (Regional Advisory Council Reference/ Key Contact Interview) to conduct interviews of references/key contacts for prospective Regional Council members. We conduct all interviews by telephone and the respondents do not see the printed form. Interviewers will ask questions about the applicant's:

(1) Knowledge of fish and wildlife resources as well as subsistence practices and commercial/sport activities.

(2) Leadership ability.

(3) Ability to communicate.

The Federal Subsistence Board uses this information to make recommendations to the Secretary of the Interior for appointment of members to the Regional Councils. We restrict the information collected to the Regional Council member selection process and only to staff that the Federal Subsistence Board deems necessary.

Comments: On December 10, 2008, we published in the **Federal Register** (73 FR 75124) a notice of our intent to request that OMB renew this ICR. In that notice, we solicited comments for 60 days, ending on February 9, 2008. We did not receive any comments in response to that notice.

We again invite comments concerning this information collection on:

(1) Whether or not the collection of information is necessary, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While

you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: February 10, 2009

Hope Grey,

Information Collection Clearance Officer, Fish and Wildlife Service.

FR Doc. E9–3409 Filed 2–13–09; 8:45 am

BILLING CODE 4310–55–S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XL01

Notice of Intent to Conduct Public Scoping and to Prepare an Environmental Impact Statement Related to the Environmental and Social Effects of Implementing the Idaho Forestry Program

AGENCY: Fish and Wildlife Service (FWS), Interior; National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; scoping meetings.

SUMMARY: The FWS and NMFS (collectively, the Services) intend to conduct public scoping under the National Environmental Policy Act (NEPA) to gather information to prepare an Environmental Impact Statement (EIS), and to respond to a request from the State of Idaho (State) to enter into a Cooperative Agreement (Agreement) under Section 6 of the Endangered Species Act (ESA) with the Services. Under the Agreement, the State would implement the Idaho Forestry Program with measures that would provide conservation benefits for listed fish species in the Salmon River Basin and Clearwater River Basin, and the Services would authorize incidental take of listed species caused by forest management activities to the extent that the effects of these activities on listed species are compliant with the requirements of Section 7 of the ESA.

DATES: Written comments should be received on or before April 3, 2009. See the **SUPPLEMENTARY INFORMATION** section for the dates and locations of the scoping meetings.

ADDRESSES: All comments concerning the preparation of the EIS and the NEPA process should be addressed to: Jeri Wood, FWS, 1387 S. Vinnell Way, Suite 368, Boise, ID 83709, facsimile (208) 378–5262, or Ken Troyer, NMFS, 10095 W. Emerald Street, Boise, ID 83704, facsimile (208) 378–5699. Comments may be submitted by e-mail to the following address: *IdahoForestry@noaa.gov*. In the subject line of the e-mail, include the document identifier: Idaho Forestry Program.

FOR FURTHER INFORMATION CONTACT: Jeri Wood, FWS, telephone (208) 378–5289; or Ken Troyer, NMFS, telephone (208) 378–5692.

SUPPLEMENTARY INFORMATION:

Dates and Addresses of Scoping Meetings

The dates and locations for the public scoping workshops are:

1. February 23, 2009, 7 – 9 p.m., Best Western, 1010 S Hwy 95, Riggins, ID 83549.
2. February 24, 2009, 7 – 9 p.m., Nez Perce National Forest, Supervisor's Office, 104 Airport Road, Grangeville, ID 83530.
3. February 25, 2009, 7 – 9 p.m., Clearwater National Forest, Supervisor's Office, 12730 Highway 12, Orofino, ID 83544.
4. February 26, 2009, 7 – 9 p.m., Idaho Fish and Game, 3316 16th St., Lewiston, ID 83501.
5. March 3, 2009, 7 – 9 p.m., Forest Service's Public Lands Center (Hwy 93 S), 1206 S. Challis St., Salmon, ID 83467.

Statutory Authority

Section 9 of the ESA (16 U.S.C. 1538) and implementing regulations prohibit the taking of animal species listed as endangered or threatened. The term ''take'' is defined under the ESA (16 U.S.C. 1532(19)) as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. ''Harm'' is further defined by FWS regulation to include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering (50 CFR 17.3). NMFS' definition of ''harm'' includes significant habitat modification or degradation where it actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, spawning, migrating, rearing, and sheltering (50 CFR 222.102). Although Section 9 prohibits the taking of listed species, the ESA provides opportunities for authorized take if specified conditions are met.

Background

The State of Idaho is seeking to enter into an Agreement with the Services as part of a settlement agreement resulting from the Snake River Basin Adjudication (SRBA). The Snake River Water Rights Act of 2004 directs the heads of Federal agencies to execute and perform all actions necessary to carry out the terms of the SRBA settlement agreement, which are set forth in a document entitled ''Mediator's Term Sheet.'' The Term Sheet includes a provision for the negotiation of a Cooperative Agreement under Section 6 of the ESA to address forest management activities on State and private lands in the Salmon and Clearwater River basins that may affect federally listed fish species. The Term Sheet identifies specific forest management prescriptions for inclusion in the Cooperative Agreement and directs that the Agreement ''not vary materially'' from those prescriptions. The Term Sheet prescriptions thus form the basis for the State's proposed forest management program. However, the Services must determine that the State's proposed program is consistent with the standards and requirements contained in the ESA prior to entering in the Agreement. If the Services determine that the State's proposed program does not meet the requirements of the ESA, then the Services either will not sign the Agreement or will work with the State to modify the proposed program so that it does meet the standards of the ESA. The Term Sheet and the State's Program document can be viewed at *http://www.idl.idaho.gov/eis/eis_index.html*.

The Services are considering entering into an Agreement with the State of Idaho for the purpose of implementing a conservation program for salmon, steelhead, and bull trout as part of the Idaho Forestry Program. Under the proposed Agreement, the State of Idaho is seeking incidental take coverage for five listed fish species: (1) the Snake River sockeye salmon (*Oncorhynchus nerka*); (2) Snake River spring/summer Chinook salmon (*O. tshawytscha*), (3) Snake River fall Chinook salmon (*O. tshawytscha*), (4) Snake River steelhead (*O. mykiss*), and (5) the bull trout (*Salvelinus confluentus*). The Snake River sockeye salmon is currently listed as endangered under the ESA, while the other four fish species are listed as threatened under the ESA.

The Agreement would apply to State and private forest lands in the Salmon River and Clearwater River basins. The need for this action is: (1) to fulfill the Services' duties under the Snake River Water Rights Act of 2004; (2) to provide

conservation benefits for listed species pursuant to Section 6(c)(1) of the ESA in addition to those provided under existing laws and regulations; (3) to provide for a stable, profitable, long-term program for the management of forest resources on enrolled State and private lands in the Salmon River and Clearwater River basins of Idaho that is consistent with the conservation of listed fish species under Section 6 of the ESA; (4) to actively manage the Idaho Forestry Program to assist in the conservation of listed fish species and the protection of their habitat; and (5) to provide a mechanism for State and private landowners implementing Idaho Forestry Program measures to receive authorization for incidental take of listed fish species resulting from forest management activities.

The Idaho Forestry Program includes the following forest management activities: timber harvest, stand improvement, prescribed fire, site preparation and tree planting, road construction, road reconstruction, road maintenance, and road abandonment. To minimize the impacts of these activities on listed fish species and their habitat, the Idaho Forestry Program also includes riparian- and road-related conservation measures. The riparian measures would regulate timber harvest and road-building adjacent to streams. The road measures would regulate road maintenance, road upgrades, road construction, and other aspects of road management. Key conservation measures would include Riparian Protection Zones adjacent to fish-bearing streams and the elimination of major sources of sediment delivery to streams from the existing forest road system on enrolled lands.

The term of the proposed Agreement for the Idaho Forestry Program is 30 years (as specified in the Term Sheet) and would cover forest management activities on up to 1.5 million acres of land, located mostly in the Clearwater River Basin but also scattered throughout the Salmon River Basin. Throughout the 30–year period, the Services must annually reconfirm that the Idaho Forestry Program is an adequate and active program for the conservation of listed species.

The Term Sheet expressly directs the Services to comply with the procedural requirements of NEPA in conjunction with the proposed Agreement. NEPA (42 U.S.C. 4321 *et seq.*) requires that Federal agencies conduct an environmental analysis of their proposed actions to determine if the actions may significantly affect the human environment. Under NEPA, a full range of reasonable alternatives to a proposed action is developed and considered in the Services' environmental review. For this particular proposed action, the Services' ultimate discretion to adopt alternatives analyzed in the EIS is limited by the Snake River Water Rights Act of 2004 and associated Term Sheet, which sets forth specific forest management prescriptions to the extent they are consistent with the ESA. The Services will therefore enter into the Agreement, approving the specific prescriptions of the Idaho Forestry Program, if they find the Program to be consistent with the ESA. The Services will, however, also examine a full range of reasonable alternatives to this specific program because (1) there are elements of the Term Sheet that allow some flexibility in the composition of the forestry program, (2) examining other alternatives can help further reveal potential effects of the proposed program, and (3) if the Services find the Idaho Forestry Program to be inconsistent with the ESA, alternatives or components of alternatives may be used to modify the proposed program, with agreement from the State.

The EIS will identify potentially significant direct, indirect, and cumulative impacts on land use, air quality, water quality, water resources, socioeconomics, and other environmental issues that could occur with implementation of the proposed action and alternatives.

The Services have identified the following preliminary alternatives for public evaluation during the scoping period:

Alternative 1: No Action - Under the No-action Alternative, the Services would not enter a Cooperative Agreement with the State of Idaho; the State of Idaho would not implement the Idaho Forestry Program; the Services would not authorize incidental take of listed species; and State and private forest land managers would follow the existing Idaho Forest Practices Act.

Alternative 2: Proposed Action - Under the Proposed Action Alternative, the Services would conduct an ESA Section 7 consultation to determine whether entering into a Cooperative Agreement with the State of Idaho would likely jeopardize the continued existence of any listed species, and, if appropriate, the Services would authorize the incidental take of salmon, steelhead, and bull trout for a period of 30 years; the Services would enter into the Cooperative Agreement with the State of Idaho, with annual reviews of whether or not the Idaho Forestry Program is an adequate and active program for the conservation of listed species; and the State of Idaho would implement the Idaho Forestry Program.

The Services may also consider alternatives that provide for greater restrictions on forest management activities than the proposed Idaho Forestry Program and alternatives that provide fewer restrictions on forest management activities than the Idaho Forestry Program. Additional project alternatives may be developed based on input received during the public scoping process.

Request for Comments

The primary purpose of the scoping process is for the public to assist the Services in developing the EIS by identifying important issues and alternatives related to the proposed action. The scoping workshops will allocate time for presentations by the Services and the State of Idaho, followed by informal questions, comments, and discussions.

Written and verbal comments from interested parties are welcome to ensure that the full range of issues related to the environmental and social effects of implementing the Idaho Forestry Program under the Agreement are identified. All comments and materials received, including names and addresses, will become part of the administrative record and may be released to the public.

Comments and materials received will be available for public inspection, by appointment, during normal business hours at the offices listed in the **ADDRESSES** section of this notice.

The Services request that public comments be specific. In particular, we request information regarding: direct, indirect, and cumulative impacts that implementation of the proposed Idaho Forestry Program or other alternatives could have on listed species and their habitats; possible alternatives; potential adaptive management and/or monitoring provisions; funding issues; existing environmental conditions in the project area; other plans or projects that might be relevant to this proposed project; acreage that should be covered; specific species that should or should not be covered; specific landforms that should or should not be included in the analyses; and minimization and mitigation measures. The Services estimate that the draft EIS will be available for public review in the winter of 2010.

The environmental review of this project will be conducted in accordance with the requirements of the NEPA of 1969, as amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality Regulations (40 CFR parts 1500

1508), other applicable Federal laws and regulations, and applicable policies and procedures of the Services. This notice is being furnished in accordance with 40 CFR 1501.7 of the NEPA regulations to obtain suggestions and information from other agencies and the public on the scope of issues and alternatives to be addressed in the EIS.

Reasonable Accommodation

Persons needing reasonable accommodation to attend and participate in one of the public meetings should contact Ken Troyer (see **FOR FURTHER INFORMATION CONTACT**). To allow sufficient time to process requests, please call no later than five days prior to the meeting you plan to attend. Information regarding the applicant's proposed action is available in alternative formats upon request.

Dated: February 9, 2009.

David Wesley,

Deputy Regional Director, Fish and Wildlife Service, Region 1, Portland, Oregon

Dated: February 10, 2009.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E9–3294 Filed 2–13–09; 8:45 am]

BILLING CODES 4310–55–S, 3510–22–S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–R–2008–N0318; 1265–0000–10137–S3]

Fee Collection at Tualatin River National Wildlife Refuge, OR

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to implement fee collection.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce our intent to collect an entrance fee at Tualatin River National Wildlife Refuge (Refuge), located in Oregon, as authorized by Federal Lands Recreation Enhancement Act (REA). Under REA provisions, the Refuge will identify and post specific visitor fees. The Refuge's proposed fees include a $2.00 per day per person fee or a $4.00 per day per vehicle fee (*see* proposed Fee Schedule under **SUPPLEMENTARY INFORMATION**).

DATES: Submit your comments on this action by March 19, 2009. Unless we publish a notice in the **Federal Register** withdrawing this action, we will begin collecting fees on August 17, 2009 at the Refuge.

ADDRESSES: Submit your comments by one of the following methods:

- *By U.S. mail to:* U.S. Fish and Wildlife Service, *Attn:* Branch of Visitor Services and Communications, 911 NE 11th Avenue, Portland, OR 97232.
- *By fax to:* (503) 231–6187.
- *By e-mail to: Mike_Marxen@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Kim Strassburg or Ralph Webber at (503) 625–5944.

SUPPLEMENTARY INFORMATION: In an effort to meet increasing demands for services, and to maintain developed facilities, we announce our intent to implement an entrance fee at the Refuge under 16 U.S.C. 6802(e) of the REA. The Refuge plans to use collected fees to repair, maintain, and enhance visitor facilities. Here is the proposed entrance fee structure:

Tualatin River Refuge visitors	Entrance fee
1. Youth Ages 15 and Under	Free.
2. Daily Individual Entrance Fee (Fee is per person/per day, when arriving on foot, bicycle, as part of a tour group, or on a bus.).	$2.00
3. Daily Noncommercial Vehicle Entrance Fee (Fee is per single, private noncommercial vehicle.)	$4.00
4. Family Group Entrance Fee (Fee is the maximum per day, per family, when arriving on foot, bicycle, as part of a tour group, or on a bus) A family group is defined as up to four adults (16 years and older) and any number of children (15 years and under).	$4.00
5. Annual Tualatin River Refuge Pass (per single private noncommercial vehicle) valid for 1 year	$15.00 annually.

Special Provisions and Exceptions to the Entrance Fee Structure

National Public Lands Day (NPLD) is a ''fee-free'' day for all visitors to the Refuge. The National Environmental Education Foundation determines the date of NPLD. The Refuge may establish other ''fee-free'' days in conjunction with special events such as International Migratory Bird Day and National Wildlife Refuge Week.

The Refuge will not collect entrance fees from volunteers who are actively working on or for the Refuge during their scheduled duty times. Volunteers who contribute and record 80 hours of volunteer service or more during a fiscal year will receive an Annual Refuge Pass at no charge.

The Refuge will waive entrance fees for school groups participating in the Refuge's environmental education field trip program. However, all educators interested in bringing students to the Refuge in grades K–8 must first complete the Refuge's teacher workshop. The Refuge will also waive fees for secondary level and collegiate student field trips that support a larger unit of study.

The Refuge will waive site-specific entrance fees for enrolled members of the Confederated Tribes of the Grand Ronde with proper identification.

Passes in Lieu of Entrance Fees

The Refuge will participate in two pass programs, the Federal Duck Stamp and the America the Beautiful National Parks and Federal Recreational Lands Pass programs. The Refuge will honor and offer for purchase passes associated with these programs. Information on the programs is available on the Service's Internet site at *http://www.fws.gov/duckstamps/* and *http://www.fws.gov/refuges/visitors/passes.html*. The Refuge will also honor Golden Eagle, Golden Age, and Golden Access passes. A list of passes the Refuge will honor and/or sell follows. If your pass is not listed, we encourage you to contact the Refuge and inquire about pass acceptance prior to your visit.

Passes honored by and/or available for purchase at the Refuge	Charge for pass
1. Federal Duck Stamp (valid for 1 year beginning July 1)	$15.00 annually.
2. America the Beautiful National Parks and Federal Recreational Lands.	
• Annual Pass	$80.00 annually.
• Senior Pass (lifetime pass for those who qualify)	One time fee of $10.00.
• Access Pass (lifetime pass for those who qualify)	Free.
3. Golden Eagle, Golden Age, and Golden Access Pass. The Refuge will honor these passes according to the provisions of each.	Honored, but not available for purchase.
4. Annual Tualatin River Refuge Pass	$15.00 annually.

Entrance Fees Support Refuge Visitor Facilities

The Refuge plans to use collected fees to repair and maintain the following visitor facilities: trails, wildlife overlooks, a photography blind, environmental education study sites, interpretive signs, the Wildlife Center, public access roads, and parking lots. The Refuge will also use collected fees to purchase environmental education curriculum and equipment, interpretive publications, and exhibit materials. It is our policy to allow only activities that are appropriate and compatible with the specific site's purposes. In order to charge fees, the site must have the staff and resources to manage a fee activity as well as to collect and deposit money.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authorities and Requirements of the REA

In December 2004, the REA became law (16 U.S.C. 6801–6814). The REA provides authority through December 2014 for the Secretaries of the Departments of the Interior and Agriculture (Secretaries) to establish, modify, charge, and collect recreation fees at some Federal recreation lands and waters, and contains specific provisions addressing public involvement in establishing recreation fees. The REA also directed the Secretaries to publish advance notice in the **Federal Register** whenever bureaus establish new recreation fee areas under their respective jurisdictions.

Should public comments provide substantive reasons why we should not collect fees at the Refuge, we may reevaluate our plan and publish a subsequent notice in the **Federal Register** withdrawing this action. Otherwise, fee collection at the Tualatin River Refuge for visitor facilities and programs will begin on the date specified in the **DATES** section of this document, and the Refuge will post fee amounts and expenditures onsite.

Authority: 16 U.S.C. 6801–6814.

Dated: January 6, 2009.

David J. Wesley,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. E9–3258 Filed 2–13–09; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMT926000–L19100000–BJ0000–LRCM08RS4053]

Montana: Filing of Plat of Survey

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of Filing of Plat of Survey.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, (30) days from the date of publication in the **Federal Register** .

FOR FURTHER INFORMATION CONTACT: Martin Bonorden, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (701) 227–7730 or (406) 896–5009.

SUPPLEMENTARY INFORMATION: This survey was executed at the request of the Fort Peck Agency, through the Rocky Mountain Regional Director, Bureau of Indian Affairs, and was necessary to determine Trust and Tribal lands.

The lands we surveyed are:

Principal Meridian, Montana

T. 27 N., R. 54 E.

The plat, in 4 sheets, representing the dependent resurvey of a portion of the 13th Guide Meridian East, through Township 27 North, and a portion of the west and north boundaries, the corrective dependent resurvey of the lines between sections 1 and 2, sections 2 and 3, and sections 9 and 10, the dependent resurvey of a portion of the subdivisional lines, a portion of the subdivision of sections 1, 2, 3, and 6, and the adjusted original meanders of the left bank of the Missouri River, downstream through sections 1, 2, 3, 6, and 12, the subdivision of sections 1, 2, and 3, and the survey of the meanders of the present left bank of the Missouri River, downstream through sections 1, 2, 3, and 6, the meanders of the left bank of a relicted channel of the Missouri River, downstream through section 1, the medial lines of two relicted channels of the Missouri River, certain partition lines, and Tract 41, Township 27 North, Range 54 East, Principal Meridian, Montana, was accepted February 6, 2009.

We will place a copy of the plat, in 4 sheets, and related field notes we described in the open files. They will be available to the public as a matter of information.

If BLM receives a protest against this survey, as shown on this plat, in 4 sheets, prior to the date of the official filing, we will stay the filing pending our consideration of the protest.

We will not officially file this plat, in 4 sheets, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

Dated: February 10, 2009.

Michael T. Birtles,

Chief Cadastral Surveyor, Division of Resources.

[FR Doc. E9–3255 Filed 2–13–09; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing

or related actions in the National Register were received by the National Park Service before February 1, 2009.Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by March 4, 2009.

J. Paul Loether,

Chief,National Register of Historic Places/ NationalHistoric Landmarks Program.

ALABAMA

Jefferson County

Tarrant City Downtown Historic District,Parts of E. Lake Blvd., Ford Ave., Jackson Blvd., Pinson St., Wharton Ave.,Tarrant, 09000105

IOWA

Dallas County

Adel Public Square Historic District,About four blocks in downtown Adel centered on the Public Square,Adel, 09000106

Polk County

Boyt Company Building,210 Court Ave.,Des Moines, 09000108

Sioux County

Hawarden City Hall, Fire Station and Auditorium,715 Central Ave.,Hawarden, 09000107

MISSISSIPPI

Coahoma County

Woolworth Building,207 Yazoo Ave.,Clarksdale, 09000110

Jefferson County

Hays House,18800 Hwy 61 S.,Lorman, 09000111

Lafayette County

South Lamar Historic District, S. Lamar Blvd. and University Ave.,Oxford, 09000112

Montgomery County

Winona Community House,113 Sterling St.,Winona, 09000113

TENNESSEE

Davidson County

Dyer, Arthur J., Observatory,1000 Oman Dr.,Brentwood, 09000114

Knox County

Church Street Methodist Church,(Knoxville and Knox County MPS)913 Henley St.,Knoxville, 09000115

Montgomery County

RiverView Mounds Archeological Site (40MT44),Address Restricted,Clarksville, 09000116

Roane County

Oliver Springs Motor Company,505 Winter Gap Ave.,Oliver Springs, 09000117

Shelby County

Forrest Park Historic District, S. Manassas St. and Union Ave.,Memphis, 09000118

Sullivan County

McFarland, William and Maggie, House,324 6th St.,Bristol, 09000119

VIRGINIA

Fauquier County

Hopefield,6763 Airlie Rd.,Warrenton, 09000120

Giles County

Pyne, Q.M., Store,168 Village St.,Eggleston, 09000121

Staunton Independent city

Lee, Robert E., High School,274 Churchville Ave.,Staunton, 09000122

Wise County

Flat Gap High School, Rt. 671,Pound, 09000123

WISCONSIN

Oneida County

West Side School,718 W. Phillip St.,Rhinelander, 09000124

Request for REMOVAL has been made for the following resources:

TENNESSEE

Bedford County

Bivvins House, Off US 41,Shelbyville, 79002413

Blount County

Alcoa South Plant Office,Hall Rd.,Alcoa, 89001070

Giles County

Batte—Brown—Blackburn House,318 W. Madison St.,Pulaski, 96000659

Hickman County

Fairview School,113 E. Hackberry St.,Centerville, 83004252

Montgomery County

Minglewood Farm,1650 Hopkinsville Hwy.,Clarksville, 87001856

[FR Doc. E9–3244 Filed 2–13–09; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Weekly Listing of Historic Properties

Pursuant to (36 CFR 60.13(b,c)) and (36 CFR 63.5), this notice, through publication of the information included herein, is to apprise the public as well as governmental agencies, associations and all other organizations and individuals interested in historic preservation, of the properties added to, or determined eligible for listing in, the National Register of Historic Places from December 29, 2008 to January 2, 2009.

For further information, please contact Edson Beall via: United States Postal Service mail, at the National Register of Historic Places, 2280, National Park Service, 1849 C St., NW., Washington, DC 20240; in person (by appointment), 1201 Eye St., NW., 8th floor, Washington, DC 20005; by fax, 202–371–2229; by phone, 202–354–2255; or by e-mail, *Edson_Beall@nps.gov* .

Dated: February 9, 2009.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

KEY: State, County, Property Name, Address/Boundary, City, Vicinity, Reference Number, NHL, Action, Date, Multiple Name

ALABAMA

Mobile County

Knox, Ross, House, 102 Hillwood Rd., Mobile, 08001252, LISTED, 12/30/08

FLORIDA

Orange County

Barbour, Robert Bruce, House, 656 Park Ave. N., Winter Park, 08001244, LISTED, 12/31/08

St. Johns County

Fort Matanzas NM Headquarters and Visitor Center, 8635 A1A S., St. Augustine, 08001245, LISTED, 12/31/08 (Florida's New Deal Resources MPS)

GEORGIA

Habersham County

Demorest Women's Club, 1035 Central Ave., Demorest, 08001247, LISTED, 12/30/08

Harris County

Bethlehem Baptist Church Colored School, 200 Bethlehem Dr., Pine Mountain Valley vicinity, 08001246, LISTED, 12/30/08

Taylor County

Mauk School, 37 GA 127 S., Mauk, 08001248, LISTED, 12/30/08

Troup County

Kidd-Robertson House, 2423 Greenville Rd., LaGrange vicinity, 08001249, LISTED, 12/30/08

ILLINOIS

Winnebago County

Lundberg, Charles, House, 946 N. 2nd St., Rockford, 08001251, LISTED, 12/30/08

IOWA

Benton County

Herring Hotel, 718 13th St., Belle Plaine, 08001250, LISTED, 12/31/08

MAINE

Cumberland County

Bailey Island Library Hall, 2167 Harpswell Island Rd., Harpswell, 08001253, LISTED, 12/31/08

Kennebec County

Kent Burying Ground, NE corner of Fayette Corner Rd. and Oak Hill Rd., Fayette, 08001254, LISTED, 12/31/08

Kennebec County

Winthrop Street Historic District (Boundary Increase), 20 Spring St., Augusta, 08001255, LISTED, 12/30/08

Lincoln County

Pythian Opera House, 86 Townsend Ave., Boothbay Harbor, 08001256, LISTED, 12/30/08

Oxford County

Forest Lodge, Carry Rd., about 1.9 mi. W. of Middle Dam, Upton, 08001257, LISTED, 12/30/08

York County

Biddeford—Saco Mills Historic District, Bounded by Pearl, Lincoln, York and Main Sts., Biddeford, Gooch and Saco Sts., Biddeford, 08001258, LISTED, 12/30/08

MASSACHUSETTS

Suffolk County

Compton Building, 159, 161–175 Devonshire St., 18–20 Arch St., Boston, 08001284, LISTED, 12/31/08

MISSOURI

Cape Girardeau County

Main—Spanish Commercial Historic District, Roughly the 100 blocks of Main and Spanish Sts. and adjacent portions of Themis and Independence, Cape Girardeau, 08001259, LISTED, 12/30/08 (Cape Girardeau, Missouri MPS)

St. Louis County

Webster Park Residential Historic District, Roughly bounded by Newport, Bompart, E. Lockwood, N. Maple and Glen Rd., Webster Groves, 08001260, LISTED, 12/30/08

MONTANA

Fergus County

Naylor Brothers Ranch Historic District, 503 E. Dry Creek Rd., Buffalo, 08001261, LISTED, 12/30/08

Flathead County

Beck, Alice, Cabin, S. of Kelly's Camp Rd., E. of McDonald Creek., Glacier National Park, Lake McDonald, 08001219, LISTED, 12/26/08 (Recreational Camps on Lake McDonald, MT)

Flathead County

Greve's Tourist Cabins, W. side of Going-to-the-Sun Rd., Glacier National Park, Lake McDonald vicinity, 08001222, LISTED, 12/26/08 (Recreational Camps on Lake McDonald, MT)

Flathead County

Howes' Lake McDonald Cottage Sites Historic District, N. side of Apgar Loop Rd., Glacier National Park, West Glacier vicinity, 08001223, LISTED, 12/26/08 (Recreational Camps on Lake McDonald, MT)

Flathead County

Sherwood Lodge, Grist Rd., Glacier National Park, West Glacier vicinity, 08001226, LISTED, 12/26/08 (Recreational Camps on Lake McDonald, MT)

OREGON

Multnomah County

Pacific Hardware and Steel Company Warehouse, 2181 NW Nicolai St., Portland, 08001263, LISTED, 12/31/08

Washington County

Young, John Quincy Adams and Elizabeth, House, 12050 NW Cornell Rd., Portland vicinity, 08001264, LISTED, 12/31/08

PENNSYLVANIA

Delaware County

Woodcrest, 610 King of Prussia Rd., Radnor Township, 08001265, LISTED, 12/30/08

Lawrence County

Scottish Rite Cathedral, 110 E. Lincoln Ave., New Castle, 08001266, LISTED, 12/30/08

Luzerne County

St. Stanislaus Institute, 141 Old Newport St., Newport Township, 08001267, LISTED, 12/30/08

Northampton County

Lutz-Franklin School, 4216 Countryside La., Lower Saucon Township, 08001268, LISTED, 12/30/08 (Educational Resources of Pennsylvania MPS)

Philadelphia County

Amalgamated Center, 2101–2143 S. St., Philadelphia, 08001269, LISTED, 12/30/08

Philadelphia County

Wynnestay, 5125 Woodbine Ave., Philadelphia, 08001270, LISTED, 12/30/08

York County

York Historic District (Boundary Increase), Edgar and Charles St., MD and PA Railroad, Vander and Church Aves., York, 08001271, LISTED, 12/30/08

VIRGINIA

Suffolk Independent City

Somerton Historic District, Arthur Dr., Pittmantown Rd., Boonetown Rd., Suffolk vicinity, 08001272, LISTED, 12/31/08

[FR Doc. E9–3234 Filed 2–13–09; 8:45 am]

BILLING CODE 4310–51–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–605]

In the Matter of Certain Semiconductor Chips With Minimized Chip Package Size and Products Containing Same; Notice of Commission Determination To Extend the Deadline for Receiving Written Submissions on Issues Relating to Violation of Section 337, Remedy, the Public Interest, and Bonding; Extension of the Target Date

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to extend the deadline for written submissions on issues concerning violation of section 337, remedy, the public interest, and bonding and to extend the target date in the above captioned investigation to April 13, 2009.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–2301. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 21, 2007, based on a complaint filed by Tessera, Inc. of San Jose, California (''Tessera'') against Spansion, Inc. and Spansion, LLC, both of Sunnyvale, California; QUALCOMM, Inc. of San Diego, California; AT1 Technologies of Thornhill, Ontario, Canada; Motorola, Inc. of Schaumburg, Illinois; STMicroelectronics N.V. of Geneva, Switzerland; and Freescale Semiconductor, Inc. of Austin, Texas (collectively ''Respondents''). 72 FR 28522 (May 21, 2007). The complaint alleges violations of section 337 in the

importation into the United States, the sale for importation, and the sale within the United States after importation of certain semiconductor chips with minimized chip package size or products containing same by reason of infringement of one or more claims of U.S. Patent Nos. 5,852,326, and 6,433,419.

On December 1, 2008, the ALJ issued his final Initial Determination (''ID'') finding no violation of section 337 by Respondents. On January 30, 2009, the Commission issued a Notice determining to review the final ID in part and requesting written submissions from the parties regarding the issues under review concerning violation of section 337, as well as from the public regarding issues of remedy, the public interest, bonding. 74 FR 6175–7 (February 5, 2009). On February 6, 2009, Respondents filed a motion to extend the briefing schedule.

In light of the fact that the ALJ did not issue the public version of the final ID until February 9, 2009, the Commission has determined to extend the deadline for receiving initial written submissions on issues relating to violation of section 337, remedy, the public interest, and bonding until Monday, February 23, 2009. The Commission has also determined to extend the deadline for reply submissions on issues relating to violation of section 337, remedy, the public interest, and bonding until Thursday, March 5, 2009.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

The Commission has also determined to extend the target date of the above-referenced investigation by eleven (11) days to April 14, 2009.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

By order of the Commission.

Issued: February 11, 2009.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–3280 Filed 2–13–09; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Under the Clean Air Act, Comprehensive Environmental Response, Compensation, and Liability Act, and Emergency Planning and Community Right-To-Know Act

Notice is hereby given that on February 10, 2009, a proposed Consent Decree in *United States, et al* v. *Frontier Refining Inc. and the Frontier El Dorado Refining Company,* Civil Action No. Civil Action No. 09–CV–1032–WEB–KMH was lodged with the United States District Court for the District of Kansas.

The Consent Decree in this Clean Air Act enforcement action against Frontier Refining Inc. and the Frontier El Dorado Refining Company (collectively ''Frontier'') resolves allegations by the Environmental Protection Agency, asserted in a complaint filed together with the Consent Decree, under Sections 113(b) and 167 of the Clean Air Act, 42 U.S.C. 7413(b) and, 7477 Section 109(c) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9609(c), and Section 325(b) of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. 11045(b) for alleged environmental violations at Frontier Refining Inc.'s petroleum refinery located in Cheyenne, Wyoming, and Frontier El Dorado Refining Company's petroleum refinery located in El Dorado, Kansas. The proposed Consent Decree also resolves separate but related state law claims brought by Wyoming and Kansas who have intervened in this matter. This is one of numerous national settlements reached as part of the EPA's CAA Petroleum Refinery Initiative. Consistent with the objectives of EPA's national initiative, in addition to the payment of civil penalties, the settlement will require Frontier to perform injunctive relief to reduce emissions of nitrogen oxide, sulfur dioxide, particulate matter, and carbon monoxide at the covered refineries and to implement several Supplemental Environmental Projects. In addition, to resolve certain alleged Risk Management Program violations of Section 112(r)(7) of the Clean Air Act, 42 U.S.C. 7412(r)(7), the Frontier El Dorado Refining Company will pay an additional civil penalty, perform a Supplemental Environmental Project and implement injunctive to correct program deficiencies.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States, et al* v. *Frontier Refining Inc. and the Frontier El Dorado Refining Company,* Civil Action No. Civil Action No. 09–CV–1032–WEB–KMH, D.J. Ref. 90–5–2–1–08660.

The Consent Decree may be examined at: the Office Of the United States Attorney for the District of Wyoming, 2120 Capitol Avenue—4th Floor, Cheyenne, Wyoming 82001; the Office of United States Attorney for the District of Kansas, 500 State Street Suite 360, Kansas City, Kansas 66101, USAO File Number 2008V00801; U.S. EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129; and U.S. EPA Region 7, 901 North 5th Street, Kansas City, Kansas 66101. During the public comment period, the Consent Decree, may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, exclusive of exhibits and defendants' signatures, please enclose a check in the amount of $45.75 (25¢ per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address. If requesting a copy with exhibits, enclose a check in the amount of $51.00.

Robert Brook,

Assistant Chief, Environmental Enforcement Section,Environment and Natural Resources Division.

[FR Doc. E9–3214 Filed 2–13–09; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Supplemental Notice of Lodging of Consent Decree Under the Clean Water Act

On January 14, 2009, the Department of Justice published notice of the December 31, 2008, lodging of a proposed consent in *United States and State of Oregon* v. *Pacific Northern Environmental Corp., dba Dedicated Fuels, Inc.*, Civil Action No. 3:08–cv–01513–HU (D. Or.). See 74 FR 2101 (Jan. 14, 2009).

The United States hereby supplements its notice because Appendix A to the proposed consent decree was omitted from the document when it was made available for public inspection. The period for submitting any comment on the proposed consent decree, including Appendix A, is hereby extended for a period of ten (10) days after the date of publication of this Supplemental Notice.

Robert E. Maher, Jr.,

Assistant Section Chief, Environmental Enforcement Section.

[FR Doc. E9–3217 Filed 2–13–09; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act, Comprehensive Environmental Response, Compensation, and Liability Act, and Emergency Planning and Community Right-To-Know Act

Notice is hereby given that on February 10, 2009, a proposed Consent Decree in *United States, et al.* v. *Hermes Consolidated, Inc. dba Wyoming Refining Company*, Civil Action No. 09–CV–00028–ABJ was lodged with the United States District Court for the District of Wyoming.

The Consent Decree in this enforcement action against Hermes Consolidated, Inc. (''Hermes''), resolves allegations by the Environmental Protection Agency, asserted in a complaint filed together with the Consent Decree, under Sections 113(b) and 167 of the Clean Air Act, 42 U.S.C. 7413(b) and 7477, Section 109(c) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9609(c), and Section 325(b) of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. 11045(b), for alleged environmental violations at Hermes's petroleum refinery in Newcastle, Wyoming. The proposed Consent Decree also resolves separate but related state law claims brought by the State of Wyoming, which has intervened in this matter. This is one of numerous national settlements reached as part of the EPA's National Petroleum Refinery Initiative. Consistent with the objectives of EPA's initiative, in addition to the payment of civil penalties, the settlement will require Hermes to perform injunctive relief to reduce emissions of nitrogen oxide, sulfur dioxide, volatile organic compounds, particulate matter, and carbon monoxide at the refinery. Also, the refinery will upgrade its leak detection and repair program to reduce emissions from pumps and valves.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the settlement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, D.C. 20044–7611, and should refer to *United States, et al.* v. *Hermes Consolidated, Inc.*, Civil Action No. 09–CV–00028–ABJ, D.J. Ref. 90–5–2–1–08001.

The Consent Decree may be examined at: the United States Attorney's Office for the District of Wyoming, 2120 Capitol Avenue—4th Floor, Cheyenne, Wyoming 82001 (request USAO File Number 2006V00090) and U.S. EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129 (contact David Rochlin at 303–312–6892). During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html*. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $26.00 (25¢ per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Robert Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E9–3233 Filed 2–13–09; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated February 20, 2008, and published in the **Federal Register** on February 29, 2008 (73 FR 11148), Meridian Medical Technologies, 2555 Hermelin Drive, St. Louis, Missouri 63144, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Morphine (9300), a basic class of controlled substance listed in schedule II.

The company plans to import products for research experimentation or clinical use and analytical testing.

One objection was received; however, it has subsequently been withdrawn.

DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Meridian Medical Technologies to import the basic class of controlled substance is consistent with the public interest, and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Meridian Medical Technologies to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic class of controlled substance listed.

Dated: February 9, 2009.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E9–3392 Filed 2–13–09; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated November 26, 2008, and published in the **Federal Register** on December 5, 2008, (73 FR 74195), Tocris Cookson, Inc., 16144 Westwoods Business Park, Ellisville, Missouri 63021–4500, made application by

renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed in schedules I and II:

Drug	Schedule
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Amphetamine (1100)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Diprenorphine (9058)	II

The company plans to import the above listed controlled substances for non-clinical laboratory based research only.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Tocris Cookson, Inc. to import the basic classes of controlled substances is consistent with the public interest, and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Tocris Cookson, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed.

Dated: February 9, 2009.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E9–3396 Filed 2–13–09; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated October 9, 2008 and published in the **Federal Register** on October 17, 2008 (73 FR 61909), Penick Corporation, 33 Industrial Park Road, Pennsville, New Jersey 08070, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Oripavine (9330), a basic class of controlled substance listed in schedule II.

The company will use the above listed controlled substance in the manufacture of other controlled substance intermediates for sale to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Penick Corporation to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Penick Corporation to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: February 9, 2009.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control,Drug Enforcement Administration.

[FR Doc. E9–3393 Filed 2–13–09; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OJJDP) Docket No. 1495]

Meeting of the Federal Advisory Committee on Juvenile Justice.

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, Justice.

ACTION: Notice of meeting.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is announcing the Spring meeting of the Federal Advisory Committee on Juvenile Justice (FACJJ), which will be held in Washington, DC March 16–17, 2009.

Dates and Locations: The meeting times and locations are as follows:

1. Monday, March 16, 2009, 8 a.m. to 6 p.m., Office of Justice Programs, 810 Seventh Street, NW., Washington, DC 20531. (Open to Public)

2. Tuesday, March 17, 2009, 7:30 a.m. to 12 p.m., Oak Hill Youth Center Tour, Laurel, Maryland. (Closed Non-Deliberative Session.)

FOR FURTHER INFORMATION CONTACT: Robin Delany-Shabazz, Designated Federal Official, OJJDP, *Robin.Delany-Shabazz@usdoj.gov*, or 202–307–9963.

Note: This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Federal Advisory Committee on Juvenile Justice (FACJJ), established pursuant to Section 3(2)A of the Federal Advisory Committee Act (5 U.S.C. App.2), will meet to carry out its advisory functions under Section 223(f)(2)(C–E) of the Juvenile Justice and Delinquency Prevention Act of 2002. The FACJJ is composed of one representative from each state and territory. FACJJ duties include: reviewing Federal policies regarding juvenile justice and delinquency prevention; advising the OJJDP Administrator with respect to particular functions and aspects of OJJDP; and advising the President and Congress with regard to State perspectives on the operation of OJJDP and Federal legislation pertaining to juvenile justice and delinquency prevention. More information, including a member list, may be found at *http://www.facjj.org.*

Meeting Agenda

1. Monday, March 16, 2009

- 8 a.m.–11:45 a.m. Registration; Call to Order; Remarks by the Acting OJJDP Administrator; and Overview and Discussion in Small Groups of 2009 Annual Report Final Drafts (Open Session)
- 11:45 a.m.–1:45 p.m. Working Lunch/Sub Committee Meetings (Closed Session)
- 1:45 p.m.–6 p.m. Sub Committee Report Outs; Review and Discussion of 2009 Annual Report Final Drafts; Meeting Adjournment (Open Session)

2. Tuesday, March 17, 2009

- 7:30 a.m.–12 p.m. Tour, Oak Hill Youth Center, Laurel, Maryland. (Closed Non-Deliberative Session).

For security purposes, members of the FACJJ and of the public who wish to attend, must pre-register online at *http://www.facjj.org.* Should problems arise with Web registration, call Daryel Dunston at 240–221–4343. Members of the public must register by Monday, March 9, 2009. [**Note:** these are not toll-free telephone numbers.] Additional identification documents may be required. Space is limited.

Please note: Photo identification will be required for admission to the meeting.

Written Comments

Interested parties may submit written comments by Monday, March 9, 2009,

to Robin Delany-Shabazz, Designated Federal Official for the Federal Advisory Committee on Juvenile Justice, OJJDP, at *Robin.Delany-Shabazz@usdoj.gov.* If e-mail is not available, please fax your comments to 202–307–2819 and call Joyce Mosso at 202–305–4445 to ensure that the fax was received. [**Note:** These are not toll-free numbers.] No oral presentations will be permitted at the meeting. However, written questions and comments from members of the public attending the meeting may be invited.

Dated: February 11, 2009.

Jeff Slowikowski,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. E9–3254 Filed 2–13–09; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Interim Delegation of Authority and Assignment of Responsibility to Departmental Officials To Invoke Governmental Privileges Pending Official Appointment of Non-Career Agency Leadership

On February 9, 2009, I issued a memorandum to DOL Agency Heads pursuant to Secretary's Order 16–2006 (November 9, 2006) and its accompanying Memorandum (''2006 Memorandum'') and authorities cited therein to temporarily extend delegated authority and assigned responsibility to the incumbents of specified departmental career positions as listed on the attached memorandum, to invoke all appropriate claims of Governmental privileges arising from the functions of their respective agencies and offices. This delegation is effective immediately. A copy of that memorandum is annexed hereto as an Appendix.

FOR FURTHER INFORMATION CONTACT: Ron Whiting or Carol Dedeo, Office of the Solicitor, Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 693–5260. This is not a toll-free number.

Signed at Washington, DC this 10th day of February, 2009.

Edward C. Hugler,

Acting Secretary of Labor.

U.S. Department of Labor

Office of the Secretary

INTERIM SUPPLEMENTAL ATTACHMENT TO SECRETARY'S ORDER 16–2006

February 9, 2009

MEMORANDUM FOR AGENCY HEADS

FROM: EDWARD C. HUGLER, Acting Secretary

SUBJECT: Interim Delegation of Authority and Assignment of Responsibility to Departmental Officials to Invoke Governmental Privileges Pending Official Appointment of Non-career Agency Leadership

This Memorandum is issued pursuant to Secretary's Order 16–2006 (November 9, 2006) and its accompanying Memorandum (''2006 Memorandum'') and authorities cited therein. Those documents were published at 71 FR 67023. This Memorandum serves to supplement on an interim basis that 2006 Memorandum.

Awaiting the arrival of non-career leadership representing the Administration of President Obama, the Department of Labor and its agencies operate currently without interruption, generally under career leadership. Under these circumstances, the purpose of this Memorandum is to temporarily extend delegated authority and assigned responsibility to the incumbents of specified departmental career positions listed below to invoke all appropriate claims of Governmental privileges arising from the functions of their respective agencies and offices.

All formal claims of Governmental privilege asserted as a result of a delegation under this Memorandum will be made in accordance with the requirements and procedures specified in Secretary's Order 16–2006 and the 2006 Memorandum. Each delegation below takes effect immediately and, unless superseded, will cease individually to have effect as soon as an official whose position title is listed or described in the 2006 Memorandum commences his or her duties, but no later than December 31, 2009.

Designation of Agency Officers Delegated Authority and Assigned Responsibility To Assert Governmental Privileges

Office of the Secretary, and any other DOL component not listed below: Deputy Assistant Secretary for Operations in the Office of the Assistant Secretary for Administration and Management

Office of the Solicitor: Deputy Solicitor for National Operations

Employee Benefits Security Administration: Deputy Assistant Secretary for Program Operations

Employment Standards Administration: Deputy Assistant Secretary for Operations

Wage and Hour Division: Deputy Administrator for Enforcement

Office of Labor-Management Standards: Deputy Director

Federal Contract Compliance Programs: Director of Policy

Employment and Training Administration: Deputy Assistant Secretary for Employment and Training

Mine Safety and Health Administration: Deputy Assistant Secretary for Operations

Occupational Safety and Health Administration: Deputy Assistant Secretary

Veterans' Employment and Training Service: Deputy Assistant Secretary for Operations and Management

Office of the Assistant Secretary for Policy: Deputy Assistant Secretary for Operations and Analysis

Office of Congressional and Intergovernmental Affairs: Director of Program Planning & Results in the Office of the Assistant Secretary for Administration and Management

Office of Disability Employment Policy: Deputy Assistant Secretary

Office of Public Affairs: Director of Enterprise Communications

Women's Bureau: National Office Coordinator

[FR Doc. E9–3231 Filed 2–13–09; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Amendment to Proposed Extension of Information Collection Request Submitted for Public Comment; Defined Benefit Plan Annual Funding Notice

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)), the Department of Labor (the Department) conducts a preclearance consultation program so that the general public and other federal agencies can comment on proposed and continuing collections of information. This program helps to ensure that the data the Department gathers arrive in the desired format, that the reporting burden on the public (time and financial resources) is minimized, that the public understands the collection instruments, and that the Department can accurately assess the impact of collection requirements on respondents.

On November 21, 2008, the Department published a Notice in the

Federal Register soliciting comments on its proposed extension of the information collection provisions of regulations pertaining to section 101(f) of the Employee Retirement Income Security Act of 1974 (ERISA). As discussed more fully below, the Department is hereby amending the notice to provide the public with an additional 30-day period to comment on the revisions to the information collection contained in Field Assistance Bulletin 2009–1, which was issued by the Department on February 10, 2009.

DATES: Written comments must be submitted to the office shown in the addresses section on or before March 19, 2009.

ADDRESSES: Interested parties are invited to submit written comments regarding the information collection request and burden estimates to: G. Christopher Cosby, Office of Policy and Research, U.S. Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue, NW., Room N–5718, 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

Section 101(f) of the Employee Retirement Income Security Act of 1974 (ERISA) sets forth requirements applicable to furnishing annual funding notices. Before the enactment of the Pension Protection Act of 2006 (PPA), section 101(f) applied only to multiemployer defined benefit plans. The Department issued a final implementing regulation under this provision on January 11, 2006 (71 FR 1904), which is codified at 29 CFR 2520.101–4. The Information Collection Request (ICR) relating to the regulation was approved on March 17, 2005, under OMB Control Number 1210–0126. The ICR is scheduled to expire on March 31, 2009. The Department published a 60-day public comment Notice (the Notice) in the **Federal Register** on November 21, 2008,[1] informing the public of its intension to extend the ICR and requesting public comments.

Section 501(a) of the PPA amended section 101(f) of ERISA and made significant changes to the annual funding notice requirements. These amendments require administrators of all defined benefit plans that are subject to title IV of ERISA, not only multiemployer plans, to provide an annual funding notice to the Pension Benefit Guaranty Corporation (PBGC), to each plan participant and beneficiary, to each labor organization representing such participants or beneficiaries, and, in the case of a multiemployer plan, to each employer that has an obligation to contribute to the plan. An annual funding notice must include, among other things, the plan's funding percentage, a statement of the value of the plan's assets and liabilities and a description of how the plan's assets are invested as of specific dates, and a description of the benefits under the plan that are eligible to be guaranteed by the PBGC. The current ICR does not take these amendments into account, and the Department had not issued regulations or other guidance concerning compliance with ERISA section 101(f) as amended by the PPA when the Notice was published.

On February 10, 2009, the Department issued Field Assistance Bulletin (FAB) 2009–1, which provides guidance to the Employee Benefits Security Administration's national and regional offices concerning good faith compliance with the annual funding notice requirements as amended by the PPA and model notices plan administrators may use to satisfy the annual funding notice content requirements. The FAB provides that pending further guidance, the Department will, as a matter of enforcement policy, treat a plan administrator as satisfying the requirements of section 101(f), if the administrator complies with the guidance contained in the FAB and has acted in accordance with a good faith, reasonable interpretation of those requirements with respect to matters not specifically addressed in the FAB.

The FAB revises the ICR under OMB Control Number 1210–0126 to take into account the PPA amendments; therefore, the Department is hereby amending the Notice to provide the public with an additional 30 days to comment on the ICR as revised by the FAB.

II. Desired Focus of Comments

The Department is particularly interested in comments that:

- Evaluate whether the collection of information contained in the FAB is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Enhance the quality, utility, and clarity of the information to be collected;
- 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;
- 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.

III. Current Actions

The Department intends to request a revision of the currently approved ICR for the Multiemployer Plan Annual Funding Notice[2] under ERISA section 101(f) and 29 CFR 2520.101–4. The ICR has been revised to reflect amendments made by the Pension Protection Act of 2006 and a related FAB issued by the Department. The following provides the current burden estimates of the revised ICR:

Type of Review: Revision of a currently approved collection.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Defined Benefit Plan Annual Funding Notice.

OMB Number: 1210–0126.

Frequency: Annually.

Affected Public: Individuals or households; business or other for-profit institutions; not-for-profit institutions.

Total Respondents: 30,300.

Total Responses: 44,447,000.

Estimated Total Burden Hours: 1,025,000 (first year); 979,000 (subsequent years).

Estimated Annual Burden Cost: $32,812,000 (first year); $28,473,000 (subsequent years).

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the ICR. They also will become a matter of public record.

Dated: February 11, 2009.

Joseph S. Piacentini,

Director, Office of Policy and Research, Employee Benefits Security Administration.

[FR Doc. E9–3347 Filed 2–13–09; 8:45 am]

BILLING CODE 4510–29–P

[1] 73 FR 70677.

[2] Please note that the title of the ICR will be changed to ''Defined Benefit Plan Annual Funding Notice'' as part of the revision.

DEPARTMENT OF LABOR

Employment and Training Administration

Advancing Registered Apprenticeship into the 21st Century: Collaborating for Success; Solicitation for Grant Applications (SGA) SGA–DFA–PY–08–11; Amendment Number 1

AGENCY: Employment and Training Administration (ETA), U.S. Department of Labor.

ACTION: Notice: Amendments, Extension of period to submit applications, and announcement of Prospective Applicant Conference Webinar.

SUMMARY: The Employment and Training Administration published a document in the **Federal Register** of January 15, 2009, announcing the availability of funds and solicitation for grant applications for the Advancing Registered Apprenticeship into the 21st Century: Collaborating for Success initiative. This amendment will make changes to the January 15 document by clarifying and correcting this Solicitation.

Key Dates: The deadline for submission of applications under this announcement has been extended to March 31, 2009. A Webinar for prospective applicants will be held for this grant application on March 4, 2009. Access information for the Webinar will be posted on the U.S. Department of Labor's (DOL), Employment and Training Administration (ETA) Web site at: *http://www.workforce3one.org.*

FOR FURTHER INFORMATION CONTACT: Mamie Williams, Grants Management Specialist, Telephone (202) 693–3341.

Amendment

In the **Federal Register** of January 15, 2009, in FR Volume 74, No. 10, the solicitation is amended with the following:

1. This amendment is to announce a Prospective Applicant Webinar. On Page 2621, *Key Dates,* delete the following text: The closing date for receipt of applications under this announcement is 60 days from the date of publication in the **Federal Register**. Add the following text: The closing date for receipt of applications under this announcement is March 31, 2008. A Webinar for prospective applicants will be held for this grant application on March 4, 2009. Access information for the Webinar will be posted on the U.S. Department of Labor's (DOL), Employment and Training Administration (ETA) Web site at: *http://www.workforce3one.org.*

2. This amendment is to correct language related to the number of Parts this Solicitation for Grant Applications contains. On Page 2621, under the Supplementary Information section, in the last sentence of the third full paragraph, delete the following text: This announcement consists of seven parts. Add the following text: This announcement consists of eight parts.

3. This amendment is to add additional language to the first of seven components (different than the Parts mentioned above), for which a grant application must address at least four that must be incorporated into a grant application to be considered for an award. On Page 2621, under the Summary information, in the first of the seven components, delete the following text: Continued expansion into fast growing and/or new and emerging industries (including construction). Add the following text: Continued expansion into fast growing and/or new and emerging industries (including construction, and industries related to green technologies and skills).

4. This amendment is to add additional language to the sixth of the seven components, for which a grant application must address at least four, that must be incorporated into a grant application to be considered for an award. On Page 2621, under the Summary information, in the sixth of the seven components, delete the following text: Innovative strategies to serve under-represented populations, particularly youth and women, to meet the talent development needs of regional economies through Registered Apprenticeship. Add the following text: Innovative strategies; including but not limited to pre-apprenticeship activities, to serve under-represented populations, particularly youth and women, to meet the talent development needs of regional economies through Registered Apprenticeship.

5. On Page 2621, in the first sentence of the last full paragraph under Summary information, delete the following text: ETA recognizes that the use of these approaches will offer apprentices greater opportunities to increase their knowledge and attain the skills that emerging and high growth industries demand. Add the following text: ETA recognizes that the use of these approaches will offer apprentices greater opportunities to increase their knowledge and attain the skills that emerging and high-growth industries demand, including construction and industries related to green technologies and skills.

6. On Page 2622, Part I, the Funding Opportunity Description, *Background* section, first paragraph, sentence five, delete the following text: While this model is successful and preferred in certain industries, increasingly, new and high-growth industries are establishing competency-based and hybrid (competency and time-based) apprenticeship strategies that focus on the mastery of key skills and allow motivated workers to progress at their own pace. Add the following text: While this model is successful and preferred in certain industries, increasingly, new and high-growth industries, including construction and industries related to green technologies and skills, are establishing competency-based and hybrid (competency and time-based) apprenticeship strategies that focus on the mastery of key skills and allow motivated workers to progress at their own pace.

7. On Page 2622, Part I, the Funding Opportunity Description, *Background* section, in sentence three of the second full paragraph, delete the following text: Many Apprenticeship programs—particularly in high-growth industries such as health care, advanced manufacturing, and transportation—now also offer interim credentials and training certificates based on a competency model that leads to a Certificate of Completion. Add the following text: Many apprenticeship programs—particularly in high-growth industries such as energy, health care, advanced manufacturing, and transportation—are developing and implementing training strategies that offer interim credentials and training certificates based on a competency model that leads to a Certificate of Completion.

Signed at Washington, DC, this 6th day of February 2009.

Chari A. Magruder,

Grant Officer, Employment & Training Administration.

[FR Doc. E9–3346 Filed 2–13–09; 8:45 am]

BILLING CODE 4510–FR–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Proposed Collection; Comments Request

SUMMARY: The National Endowment for the Arts (NEA), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in

accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the NEA is soliciting comments concerning the proposed information collection of: National Endowment for the Arts Panelist Profile Form. A copy of the current information collection request can be obtained by contacting the office listed below in the address section of this notice.

DATES: Written comments must be submitted to the office listed in the address section below within 60 days from the date of this publication in the **Federal Register**. The NEA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond.

ADDRESSES: Kathy Plowitz-Worden, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Room 620, Washington, DC 20506–0001, telephone (202) 682–5691 (this is not a toll-free number), fax (202) 682–5049.

Dated: February 12, 2009.

Kathy Plowitz-Worden,

Panel Coordinator, National Endowment for the Arts.

[FR Doc. E9–3391 Filed 2–13–09; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces its intent to hold proposal review meetings throughout the year. The purpose of these meetings is to provide advice and recommendations concerning proposals submitted to the NSF for financial support. The agenda for each of these meetings is to review and evaluate proposals as part of the selection process for awards. The review and evaluation may also include assessment of the progress of awarded proposals. The majority of these meetings will take place at NSF, 4201 Wilson Blvd., Arlington, Virginia 22230.

These meetings will be closed to the public. The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act. NSF will continue to review the agenda and merits of each meeting for overall compliance of the Federal Advisory Committee Act.

These closed proposal review meetings will not be announced on an individual basis in the **Federal Register**. NSF intends to publish a notice similar to this on a quarterly basis. For an advance listings of the closed proposal review meetings that includes the names of the proposal review panel and the time, date, place, and any information on changes, corrections, or cancellations, please visit the NSF Web site: *http://www.nsf.gov/events/advisory.jsp*. This information may also be requested by telephoning 703/292–8180.

Dated: February 12, 2009.

Susanne Bolton,

Committee Management Officer.

[FR Doc. E9–3373 Filed 2–13–09; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

National Science Board; Sunshine Act Meetings; Notice

The National Science Board, pursuant to NSF regulations (45 CFR Part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings for the transaction of National Science Board business and other matters specified, as follows:

AGENCY HOLDING MEETING: National Science Board.

DATE AND TIME: Monday, February 23, 2009, at 8 a.m.; and Tuesday, February 24, 2009 at 8 a.m.

PLACE: National Science Foundation, 4201 Wilson Blvd., Room 1235, Arlington, VA 22230. All visitors must report to the NSF visitor desk at the 9th and N. Stuart Streets entrance to receive a visitor's badge.

STATUS: Some portions open, some portions closed

Open Sessions

February 23, 2009

8 a.m.–8:05 a.m.
8:05 a.m.–10:30 a.m.
10:45 a.m.–12:15 p.m.
1:15 p.m.–2:15 p.m.

February 24, 2009

8 a.m.–9:30 a.m.
9:30 a.m.–10 a.m.
10:15 a.m.–10:30 a.m.
10:30 a.m.–11:30 a.m.
2 p.m.–3:30 p.m.

Closed Sessions

February 23, 2009

2:15 p.m.–4 p.m.
4:15 p.m.–5:30 p.m.

February 24, 2009

11:30 a.m.–12 p.m.
1:30 p.m.–1:40 p.m.
1:40 p.m.–2 p.m.

AGENCY CONTACT: Dr. Robert E. Webber, *rwebber@nsf.gov,* (703) 292–7000, *http://www.nsf.gov/nsb/.*

Matters To Be Discussed

Monday, February 23, 2009

Open Session: 8 a.m.–8:05 a.m.

- Chairman's Introduction

Committee on Programs and Plans (CPP)

Open Session: 8:05 a.m.–10:30 a.m.

- Approval of December 2008 CPP Minutes
- Committee Chairman's Remarks
- CPP Subcommittee on Polar Issues (SOPI)
  - SOPI Chairman's Remarks
  - Director's Report—Office of Polar Programs (OPP)
  - International Polar Year (IPY) Outreach and Education Highlights
  - Presidential Directive on Arctic Region Policy (NSPD–66/HSPD–25): Promoting International Scientific Cooperation
- Task Force on Sustainable Energy (SE)
  - Task Force Co-Chairmen's Remarks
  - Discussion of Task Force Draft Report
- *NSB Information Item:* Update on iPlant
- *NSB Information Item:* Update on Planning for Coherent Light Source Development
- *NSB Information Item:* Track 2D (High Performance Computing

System Acquisition: Towards a Petascale Computing Environment for Science and Engineering)
- *Discussion Item:* Review of MREFC Process
  - NSB Update
  - NSF Implementation Plan
  - Discussion and Next Steps

Committee on Science and Engineering Indicators (SEI)

Open Session: 10:45 a.m.–12:15 p.m.

- Chairman's Remarks
- Science and Engineering Indicators 2010 cover
- Chapter Review Assignments and Responsibilities
- Plans for the Indicators Digest
- Discussion of Companion Piece Topic
- New Data for Science and Engineering Indicators 2012
- Chairman's Summary

Committee on Education and Human Resources (CEH)

Open Session: 1:15 p.m.–2:15 p.m.

- Approval of December 2008 Minutes
- Committee Chairman's Remarks
- Update on the Next Generation of STEM Innovators Workshop
- Presentations on STEM Learning and Basic Research in Cognitive and Developmental Sciences

Committee on Programs and Plans (CPP)

Closed Session: 2:15 p.m.–4 p.m.

- Committee Chairman's Remarks
- Award Recommendations for Three Science of Learning Centers (SLCs): Introduction & Overview
  - *NSB Action Item:* Science of Learning Center #1
  - *NSB Action Item:* Science of Learning Center #2
  - *NSB Action Item:* Science of Learning Center #3

Committee on Strategy and Budget (CSB)

Closed Session: 4:15 p.m.–5:30 p.m.

- NSF Budget Update
  - NSF Plans for Use of FY 2009 Economic Stimulus Funding
  - FY 2010 Budget Request Update

Tuesday, February 24, 2009

Committee on Strategy and Budget (CSB)

Open Session: 8 a.m.–9:30 a.m.

- Approval of CSB Minutes, December 10, 2008
- Committee Chairman's Remarks
- CSB Task Force on Cost Sharing (CS)
  - Approval of December 2008 Teleconference Minutes
  - Task Force Chairman's Remarks
  - Discussion of Draft Report, Investing in the Future: NSF Cost Sharing Policies for a Robust Federal Research Enterprise
  - Presentation, NSF Implementation of NSB Recommendations on NSF Cost Sharing Policy
  - Discussion of Strategy for Community Engagement
- CSB Subcommittee on Facilities, Charge
- NSF Strategic Plan
  - Status of NSF Strategic Plan Update
  - NSB Input on Key Issues for Consideration in Developing the Next NSF Strategic Plan
- NSF Budget Update
  - FY 2009 Appropriation

Executive Committee

Open Session: 9:30 a.m.–10 a.m.

- Approval of Minutes for the December 2008 Meeting
- Executive Committee Chairman's Remarks
- Approval of Closed Session Agenda Items memo for May 13–14, 2009 meeting
- Discussion of Proposed NSB Priority Setting Process
- Updates or New Business from Committee Members

Task Force on the NSB 60th Anniversary

Open Session: 10:15 a.m.–10:30 a.m.

- Approval of Minutes for the December 9, 2008 Meeting
- Task Force Chairman's Remarks
- Further Discussion and Comments Relating to NSB 60th Anniversary

Committee on Audit and Oversight (A&O)

Open Session: 10:30 a.m.–11:30 a.m.

- Approval of Minutes of the December 9, 2008 Meeting
- Committee Chairman's Opening Remarks
- Inspector General Update
- Chief Financial Officer Update
- NSB Revisions of Award Delegation Thresholds to NSF
- FY 2009 Audit Plan
- Chairman's Closing Remarks

Committee on Audit and Oversight (A&O)

Closed Session: 11:30 a.m.–12 p.m.

- OIG FY 2010 Budget
- Pending Investigations

Plenary Executive Closed

Closed Session: 1:30 p.m.–1:40 p.m.

- Approval of December 2008 Minutes
- Approval of Honorary Awards Recipients

Plenary Closed

Closed Session: 1:40 p.m.–2 p.m.

- Approval of December 2008 Minutes
- Awards and Agreements
- Closed Committee Reports

Plenary Open

Open Session: 2 p.m.–3:30 p.m.

- Approval of December 2008 Minutes
- Chairman's Report
- Director's Report
- Open Committee Reports

Brandon Powell,

Staff Assistant.

[FR Doc. E9–3298 Filed 2–13–09; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0051]

Notice; Applications and Amendments to Facility Operating Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information or Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information or Safeguards Information

I. Background

Pursuant to section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes notices of amendments containing sensitive unclassified non-safeguards information (SUNSI) or safeguards information (SGI).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant HazardsConsideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in

10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking, Directives and Editing Branch, TWB–05–B01M, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland, or at *http://www.nrc.gov/reading-rm/doc-collections/cfr/part002/part002-0309.html*. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm.html*. If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner/requestor intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 28, 2007 (72 FR 49139). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the petitioner/requestor must contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov*, or by calling (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html*. Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html*.

Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC Meta-System Help Desk, which is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday. The Meta-System Help Desk can be contacted by telephone at 1–866–672–7640 or by e-mail at *MSHD.Resource@nrc.gov*.

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville, Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/ehd_proceeding/home.asp*, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to this amendment action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr.resource@nrc.gov*.

FirstEnergy Nuclear Operating Company, et al., Docket No. 50–412, Beaver Valley Power Station, Unit No. 2 (BVPS–2), Beaver County, Pennsylvania

Date of Amendment Request: October 10, 2008.

Description of Amendment Request: This amendment request contains sensitive unclassified non-safeguards information. The proposed amendment would modify TechnicalSpecifications (TSs) to allow an additional method of repair for steam generator (SG) tubes, involving the use of Westinghouse leak limiting Alloy 800 sleeves, and as well as, clarify an existing reporting requirement concerning SG tube inspections.

Basis for Proposed No Significant Hazards Consideration Determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No. The leak limiting Alloy 800 sleeves are designed using the applicable American Society of Mechanical Engineers (ASME) Boiler andPressure Vessel Code and, therefore, meet the design objectives of the original SG tubing. The applied stresses and fatigue usage for the sleeves are bounded by the limits established in the ASME Code. Mechanical testing has shown that the structural strength of sleeves under normal, upset, emergency, and faulted conditions provides margin to the acceptance limits.

These acceptance limits bound the most limiting (three times normal operating pressure differential) burst margin recommended by NRC Regulatory Guide 1.121, ''Bases for Plugging Degraded PWR Steam Generator Tubes.'' Burst testing of sleeve/tube assemblies has confirmed the analytical results and demonstrated that no unacceptable levels of primary to secondary leakage are expected during any plant condition.

The leak limiting Alloy 800 sleeve depth-based structural limit is determined using

NRC guidance and the pressure stress equation of ASME Code,Section III with additional margin added to account for the configuration of long axial cracks. Calculations show that a depth-based limit of 45 percent through-wall degradation is acceptable. However, the proposed amendment provides additional margin by requiring an Alloy 800 sleeved tube to be plugged on detection of any flaw in the sleeve or in the pressure boundary portion of the original tube wall in the sleeve to tube joint. Degradation of the original tube adjacent to the nickel band of an Alloy 800 sleeve, regardless of depth, would not prevent the sleeve from satisfying design requirements. Thus, flaw detection capabilities within the original tube adjacent to the sleeve nickel band are not necessary in order to justify continued operation of the sleeved tube.

Evaluation of repaired SG tube testing and analysis indicates no detrimental effects on the leak limiting Alloy 800 sleeve or sleeved tube assembly from reactor system flow, primary or secondary coolant chemistries, thermal conditions or transients, or pressure conditions as may be experienced at BVPS–2. Corrosion testing and historical performance of sleeve/tube assemblies indicates no evidence of sleeve or tube corrosion considered detrimental under anticipated service conditions.

Implementation of the proposed change has no significant effect on either the configuration of the plant or the manner in which it is operated. The consequences of a hypothetical failure of the leak limiting Alloy 800 sleeve/tube assembly are bounded by the current SG tube rupture (SGTR) analysis described in the BVPS–2 Updated Final Safety Analysis Report because the total number of plugged SG tubes (including equivalency associated with installed sleeves) is required to be consistent with accident analysis assumptions. A main steam line break or feedwater line break would not cause a SGTR since the sleeves are analyzed for a maximum accident differential pressure greater than that predicted in the BVPS–2 safety analysis. The sleeve/tube assembly leakage during plant operation would be minimal and is well within the allowable TS leakage limits and accident analysis assumptions, neither of which would be changed to compensate for the proposed repair method.

Proposed changes to TS 5.6.6.2.4 only affect a reporting requirement and do not affect plant design, operation or maintenance. They are intended as clarifications that would reinforce the original intent of the reporting requirement.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No. The leak limiting Alloy 800 sleeves are designed using the applicable ASME Code as guidance, and therefore meet the objectives of the original SG tubing. As a result, the functions of the SG will not be significantly affected by the installation of the proposed sleeve. Therefore, the only credible failure mode for the sleeve and/or tube is to rupture, which has already been evaluated. The continued integrity of the installed sleeve/tube assembly is periodically verified as required by the TSs and a sleeved tube will be plugged on detection of a flaw in the sleeve or in the pressure boundary portion of the original tube wall in the sleeve to tube joint.

Proposed changes to TS 5.6.6.2.4 only affect a reporting requirement and do not affect plant design, operation or maintenance. They are editorial in nature and are intended as clarifications that would reinforce the original intent of the reporting requirement.

Implementation of the proposed change has no significant effect on either the configuration of the plant or the manner in which it is operated.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No. The repair of degraded SG tubes with leak limiting Alloy 800 sleeves restores the structural integrity of the degraded tube under normal operating and postulated accident conditions. The reduction in reactor coolant system flow due to the addition of Alloy 800 sleeves is not significant because the cumulative effect of all repaired (sleeved) and plugged tubes will continue to allow reactor coolant flow to be greater than the flow limit established in the TS limiting condition of operation 3.4.1. The design safety factors utilized for the sleeves are consistent with the safety factors in the ASME Boiler and Pressure Vessel Code used in the original SG design. Tubes with sleeves would also be subject to the same safety factors as the original tubes which are described in the performance criteria for SG tube integrity in the existing TSs. These performance criteria are not being changed to compensate for the proposed repair method. The sleeve and portions of the installed sleeve/tube assembly that represent the reactor coolant pressure boundary will be monitored and a sleeved tube will be plugged on detection of a flaw in the sleeve or in the pressure boundary portion of the original tube wall in the leak limiting sleeve/tube assembly. Use of the previously identified design criteria and design verification testing ensures that the margin of safety is not significantly different from the original SG tubes.

Proposed changes to TS 5.6.6.2.4 only affect a reporting requirement and do not affect plant design, operation or maintenance. They are editorial in nature and are intended as clarifications that would reinforce the original intent of the reporting requirement.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The Nuclear Regulatory Commission (NRC) staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for Licensee: David W. Jenkins, FirstEnergy Nuclear Operating Company, FirstEnergy Corporation, 76 South Main Street, Akron, OH 44308.

NRC Branch Chief: Mark G. Kowal.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information (SUNSI) and Safeguards Information (SGI) for Contention Preparation

FirstEnergy Nuclear Operating Company, et al., Docket No. 50–412, Beaver Valley Power Station, Unit No. 2 (BVPS–2), Beaver County, Pennsylvania

1. This order contains instructions regarding how potential parties to the proceedings listed above may request access to documents containing sensitive unclassified information (SUNSI and SGI).

2. Within ten (10) days after publication of this notice of opportunity for hearing, any potential party as defined in 10 CFR 2.4 who believes access to SUNSI or SGI is necessary for a response to the notice may request access to SUNSI or SGI. A ''potential party'' is any person who intends or may intend to participate as a party by demonstrating standing and the filing of an admissible contention under 10 CFR 2.309. Requests submitted later than ten (10) days will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

3. The requester shall submit a letter requesting permission to access SUNSI and/or SGI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, *Attention:* Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, MD 20852. The e-mail address for the Office of the Secretary and the Office of the General Counsel are *hearing.docket@nrc.gov* and *ogcmailcenter.resource@nrc.gov*, respectively.[1] The request must include the following information:

[1] *See* footnote 6. While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI

Continued

a. A description of the [licensing/enforcement] action with a citation to this **Federal Register** [notice of hearing/notice of opportunity for hearing];

b. The name and address of the potential party and a description of the potential party's particularized interest that could be harmed [by the action identified in (a)/if the enforcement action is not sustained];

c. If the request is for SUNSI, the identity of the individual requesting access to SUNSI and the requester's need for the information in order to meaningfully participate in this adjudicatory proceeding, particularly why publicly available versions of the application would not be sufficient to provide the basis and specificity for a proffered contention;

d. If the request is for SGI, the identity of the individual requesting access to SGI and the identity of any expert, consultant or assistant who will aid the requester in evaluating the SGI, and information that shows:

(i) Why the information is indispensable to meaningful participation in this licensing proceeding; and

(ii) The technical competence (demonstrable knowledge, skill, experience, training or education) of the requester to understand and use (or evaluate) the requested information to provide the basis and specificity for a proffered contention. The technical competence of a potential party or its counsel may be shown by reliance on a qualified expert, consultant or assistant who demonstrates technical competence as well as trustworthiness and reliability, and who agrees to sign a non-disclosure affidavit and be bound by the terms of a protective order; and

e. If the request is for SGI, Form SF–85, ''Questionnaire for Non-Sensitive Positions,'' Form FD–258 (fingerprint card), and a credit check release form completed by the individual who seeks access to SGI and each individual who will aid the requester in evaluating the SGI. For security reasons, Form SF–85 can only be submitted electronically, through a restricted-access database. To obtain online access to the form, the requester should contact the NRC's Office of Administration at 301–492–3524.[2] The other completed forms must be signed in original ink, accompanied by a check or money order payable in the amount of $191.00 to the U.S. Nuclear Regulatory Commission for each individual, and mailed to the: Office of Administration, Security Processing Unit, Mail Stop T–6E46, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0012.

These forms will be used to initiate the background check, which includes fingerprinting as part of a criminal history records check. **Note:** copies of these forms do not need to be included with the request letter to the Office of the Secretary, but the request letter should state that the forms and fees have been submitted as described above.

4. To avoid delays in processing requests for access to SGI, all forms should be reviewed for completeness and accuracy (including legibility) before submitting them to the NRC. Incomplete packages will be returned to the sender and will not be processed.

5. Based on an evaluation of the information submitted under items 2 and 3.a through 3.d, above, the NRC staff will determine within ten days of receipt of the written access request whether (1) there is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding, and (2) there is a legitimate need for access to SUNSI or need to know the SGI requested. For SGI, the need to know determination is made based on whether the information requested is necessary (*i.e.*, indispensable) for the proposed recipient to proffer and litigate a specific contention in this NRC proceeding[3] and whether the proposed recipient has the technical competence (demonstrable knowledge, skill, training, education, or experience) to evaluate and use the specific SGI requested in this proceeding.

6. If standing and need to know SGI are shown, the NRC staff will further determine based upon completion of the background check whether the proposed recipient is trustworthy and reliable. The NRC staff will conduct (as necessary) an inspection to confirm that the recipient's information protection systems are sufficient to protect SGI from inadvertent release or disclosure. Recipients may opt to view SGI at the NRC's facility rather than establish their own SGI protection program to meet SGI protection requirements.

7. A request for access to SUNSI or SGI will be granted if:

a. The request has demonstrated that there is a reasonable basis to believe that a potential party is likely to establish standing to intervene or to otherwise participate as a party in this proceeding;

b. The proposed recipient of the information has demonstrated a need for SUNSI or a need to know for SGI, and that the proposed recipient of SGI is trustworthy and reliable;

c. The proposed recipient of the information has executed a Non-Disclosure Agreement or Affidavit and agrees to be bound by the terms of a Protective Order setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI and/or SGI; and

d. The presiding officer has issued a protective order concerning the information or documents requested.[4] Any protective order issued shall provide that the petitioner must file SUNSI or SGI contentions 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.

8. If the request for access to SUNSI or SGI is granted, the terms and conditions for access to sensitive unclassified information will be set forth in a draft protective order and affidavit of non-disclosure appended to a joint motion by the NRC staff, any other affected parties to this proceeding,[5] and the petitioner(s). If the diligent efforts by the relevant parties or petitioner(s) fail to result in an agreement on the terms and conditions for a draft protective order or non-disclosure affidavit, the relevant parties to the proceeding or the petitioner(s) should notify the presiding officer within ten (10) days, describing the obstacles to the agreement.

9. If the request for access to SUNSI is denied by the NRC staff or a request for access to SGI is denied by NRC staff either after a determination on standing and need to know or, later, after a

and/or SGI under these procedures should be submitted as described in this paragraph.

[2] The requester will be asked to provide his or her full name, social security number, date and place of birth, telephone number, and email address. After providing this information, the requester usually should be able to obtain access to the online form within one business day.

[3] Broad SGI requests under these procedures are thus highly unlikely to meet the standard for need to know; furthermore, staff redaction of information from requested documents before their release may be appropriate to comport with this requirement. These procedures do not authorize unrestricted disclosure or less scrutiny of a requester's need to know than ordinarily would be applied in connection with an already-admitted contention.

[4] If a presiding officer has not yet been designated, the Chief Administrative Judge will issue such orders, or will appoint a presiding officer to do so.

[5] Parties/persons other than the requester and the NRC staff will be notified by the NRC staff of a favorable access determination (and may participate in the development of such a motion and protective order) if it concerns SUNSI and if the party/person's interest independent of the proceeding would be harmed by the release of the information (*e.g.*, as with proprietary information).

determination on trustworthiness and reliability, the NRC staff shall briefly state the reasons for the denial. Before the Office of Administration makes an adverse determination regarding access, the proposed recipient must be provided an opportunity to correct or explain information. The requester may challenge the NRC staff's adverse determination with respect to access to SUNSI or with respect to standing or need to know for SGI by filing a challenge within ten (10) days of receipt of that determination with (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer. In the same manner, an SGI requester may challenge an adverse determination on trustworthiness and reliability by filing a challenge within fifteen (15) days of receipt of that determination.

In the same manner, a party other than the requester may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within ten (10) days of the notification by the NRC staff of its grant of such a request.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[6]

10. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI and/or SGI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those [intervenors/petitioners] who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

Dated at Rockville, Maryland, this 10th day of February 2009.

Annette L. Vietti-Cook,

Secretary of the Commission.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION (SUNSI) AND SAFEGUARDS INFORMATION (SGI) IN THIS PROCEEDING

Day	Event/activity
0	Publication of [FEDERAL REGISTER notice/other notice of proposed action and opportunity for hearing], including order with instructions for access requests.
10	Deadline for submitting requests for access to SUNSI and/or SGI with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding; demonstrating that access should be granted (*e.g.*, showing technical competence for access to SGI); and, for SGI, including application fee for fingerprint/background check.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI and/or SGI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	NRC staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows (1) need for SUNSI or (2) need to know for SGI. (For SUNSI, NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents). If NRC staff makes the finding of need to know for SGI and likelihood of standing, NRC staff begins background check (including fingerprinting for a criminal history records check), information processing (preparation of redactions or review of redacted documents), and readiness inspections.
25	If NRC staff finds no ''need,'' ''need to know,'' or likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
190	(Receipt +180) If NRC staff finds standing, need to know for SGI, and trustworthiness and reliability, deadline for NRC staff to file motion for Protective Order and draft Non-disclosure Affidavit (or to make a determination that the proposed recipient of SGI is not trustworthy or reliable). NOTE: Before the Office of Administration makes an adverse determination regarding access, the proposed recipient must be provided an opportunity to correct or explain information.
205	Deadline for petitioner to seek reversal of a final adverse NRC staff determination either before the presiding officer or another designated officer.
A	*If Access Granted:* Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI and/or SGI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI and/or SGI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.

[6] As of October 15, 2007, the NRC's final ''E-Filing Rule'' became effective. See Use of Electronic Submissions in Agency Hearings (72 FR 49139; Aug. 28, 2007). Requesters should note that the filing requirements of that rule apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI/SGI requests submitted to the NRC staff under these procedures.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION (SUNSI) AND SAFEGUARDS INFORMATION (SGI) IN THIS PROCEEDING—Continued

Day	Event/activity
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI and/or SGI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
B	Decision on contention admission.

[FR Doc. E9–3282 Filed 2–13–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2008–0472]

Office of New Reactors; Notice of Availability of the Final Interim Staff Guidance COL/ESP–ISG–04 on the Definition of Construction and on Limited Work Authorizations

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of availability.

SUMMARY: The NRC is issuing its Final Interim Staff Guidance (ISG) COL/ESP–ISG–004 (ML090060897). This ISG provides guidance regarding the definition of construction and the delineation of preconstruction activities and those activities requiring prior approval of the U.S. Nuclear Regulatory Commission (NRC or the Commission). In addition, this ISG provides guidance regarding the information to be submitted by any applicant for a limited work authorization (LWA).

The NRC staff issues ISGs to facilitate timely implementation of the current staff guidance and to facilitate activities associated with review of applications for early site permits and combined licenses for the Office of New Reactors. The NRC staff will also incorporate COL/ESP–ISG–004 into the next revisions of the Regulatory Guide 1.206, ''Combined License Applications for Nuclear Power Plants,'' and related guidance documents.

ADDRESSES: The NRC maintains an Agencywide Documents Access and ManagementSystem (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC Public Document Room reference staff at 1–800–397–4209, 301–415–4737, or by e-mail at *pdr.resource@nrc.gov*.

FOR FURTHER INFORMATION CONTACT: Ms. Nanette V. Gilles, Division of New Reactor Licensing, Office of the New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone 301–415–1180 or e-mail at *Nanette.Gilles@nrc.gov*.

SUPPLEMENTARY INFORMATION: The NRC posts its issued staff guidance on the NRC external Web page (*http://www.nrc.gov/reading-rm/doc-collections/isg/*).

Dated at Rockville, Maryland, this 9th day of February 2009.

For the Nuclear Regulatory Commission.

Patrick M. Madden,

Deputy Director, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. E9–3397 Filed 2–13–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–289; NRC–2008–0645]

Exelon Generation Company, LLC; Exelon Generation Company, LLC, Three Mile Island Nuclear Station, Unit 1; Notice of Availability of the Draft Supplement 37 to the Generic Environmental Impact Statement for License Renewal of Nuclear Plants, and Public Meeting for the License Renewal of Three Mile Island Nuclear Station, Unit 1

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Availability; Correction.

SUMMARY: This document corrects a notice appearing in the **Federal Register** on December 9, 2008 (73 FR 74766), that announces a public meeting for the license renewal of Three Mile Island Nuclear Station, Unit 1. This action is necessary to update the date and location of the meeting.

FOR FURTHER INFORMATION CONTACT: Ms. Sarah Lopas, Environmental Project Manager, Office of Nuclear Reactor Regulation, telephone (301) 415–1147, e-mail: *sarah.lopas@nrc.gov*.

SUPPLEMENTARY INFORMATION: On page 74766, in the third column, fifteenth line, the meeting date is corrected to read from ''January 28, 2009'' to ''February 24, 2009.'' As previously stated in corrected **Federal Register** notice 74 FR 470, the location of the meeting is ''The Sheraton Harrisburg Hershey Hotel, 4650 Lindle Road, Harrisburg, PA 17111.''

Dated at Rockville, Maryland, this 9th day of February, 2009.

For the Nuclear Regulatory Commission.

David L. Pelton,

Chief, Reactor Projects Branch 1, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. E9–3285 Filed 2–13–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–038; NRC–2008–0581]

Nine Mile Point 3 Nuclear Project, LLC and Unistar Nuclear Operating Services, LLC; Nine Mile Point 3 Nuclear Power Plant Combined License Application; Notice of Cancellation of Environmental Scoping Process and Public Scoping Meeting

Nine Mile Point 3 Nuclear Project, LLC and Unistar Nuclear Operating Services, LLC have submitted an application for a combined license (COL) to build Nine Mile Point Unit 3 (NMP3), located on approximately 921 acres in Oswego County, New York on Lake Ontario, approximately five miles north-northeast of Oswego, New York. Nine Mile Point 3 Nuclear Project, LLC and Unistar Nuclear Operating Services, LLC submitted the application for the COL to the U.S. Nuclear Regulatory Commission (NRC) on September 30, 2008, pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 52.

A notice of intent to prepare an environmental impact statement and conduct scoping process was published in the **Federal Register** on January 30, 2009 (74 FR 5688–5689). On February 9, 2009, Unistar submitted a letter to the NRC requesting that the NRC consider Unistar's interest in maintaining some

schedule spacing between the NRC's review of the Calvert Cliffs Unit 3 and NMP3 COL applications. Specifically, Unistar requested that portions of the NMP3 COL review be sequenced to occur in September 2009.

In considering Unistar's request, the NRC believes that a shift in the NMP3 environmental scoping period will preserve the NRC's overall environmental review process and sequencing of activities. Therefore, the NRC has chosen to cancel the current environmental scoping process and the associated February 25, 2009 scoping meetings for this application. Both activities will be rescheduled to start in mid-2009. The purpose of this notice is to inform the public that the NRC has cancelled the current scoping process and the associated scoping meetings for this application.

Questions about this cancellation should be directed to Mr. Paul Michalak at 301–415–7612 or via e-mail at *Paul.Michalak@nrc.gov*.

Dated at Rockville, Maryland, this 11th day of February 2009.

For the Nuclear Regulatory Commission.

Andrew C. Campbell,

Acting Division Director, Division of Site and Environmental Reviews, Office of New Reactors.

[FR Doc. E9–3394 Filed 2–13–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–331; NRC–2008–0618]

Notice of Acceptance for Docketing of the Application and Notice of Opportunity for Hearing Regarding Renewal of Facility Operating License No. DPR–49 for an Additional 20-Year Period for FPL Energy Duane Arnold, LLC Duane Arnold Energy Center

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering an application for the renewal of operating license DPR–49, which authorizes FPL Energy Duane Arnold, LLC, to operate the Duane Arnold Energy Center (DAEC), at 1912 megawatts thermal. The renewed license would authorize the applicant to operate DAEC for an additional 20 years beyond the period specified in the current license. DAEC is located near Cedar Rapids, IA, and its current operating license expires on February 21, 2014.

FPL Energy Duane Arnold, LLC submitted the application dated September 30, 2008, and Supplement 1 dated January 23, 2009, pursuant to Title 10, Part 54, of the *Code of Federal Regulations* (10 CFR Part 54), to renew operating license DPR–49 for DAEC. A notice of receipt and availability of the license renewal application (LRA) was published in the **Federal Register** on November 17, 2008 (73 FR 67895).

The Commission's staff has determined that FPL Energy Duane Arnold, LLC has submitted sufficient information in accordance with 10 CFR Sections 54.19, 54.21, 54.22, 54.23, 51.45, and 51.53(c), to enable the staff to undertake a review of the application, and the application is therefore acceptable for docketing. The current Docket No. 50–331, for operating license DPR–49, will be retained. The determination to accept the license renewal application for docketing does not constitute a determination that a renewed license should be issued, and does not preclude the NRC staff from requesting additional information as the review proceeds.

Before issuance of the requested renewed license, the NRC will have made the findings required by the Atomic Energy Act of 1954 (the Act), as amended, and the Commission's rules and regulations. In accordance with 10 CFR 54.29, the NRC may issue a renewed license on the basis of its review if it finds that actions have been identified and have been or will be taken with respect to: (1) Managing the effects of aging during the period of extended operation on the functionality of structures and components that have been identified as requiring aging management review; and (2) time-limited aging analyses that have been identified as requiring review, such that there is reasonable assurance that the activities authorized by the renewed license will continue to be conducted in accordance with the current licensing basis (CLB), and that any changes made to the plant's CLB will comply with the Act and the Commission's regulations.

Additionally, in accordance with 10 CFR 51.95(c), the NRC will prepare an environmental impact statement that is a supplement to the Commission's NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants,'' dated May 1996. In considering the LRA, the Commission must find that the applicable requirements of Subpart A of 10 CFR Part 51 have been satisfied, and that matters raised under 10 CFR 2.335 have been addressed. Pursuant to 10 CFR 51.26, and as part of the environmental scoping process, the staff intends to hold a public scoping meeting. Detailed information regarding the environmental scoping meeting will be the subject of a separate **Federal Register** notice.

Within 60 days of this notice, any person(s) whose interest may be affected may file a request for hearing/petition to intervene. As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner/requestor in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or the expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact.[1] Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

The Commission requests that each contention be given a separate numeric

[1] To the extent that the application contains attachments and supporting documents that are not publicly available because they are asserted to contain safeguards or proprietary information, petitioners desiring access to this information should contact the applicant or applicant's counsel to discuss the need for a protective order.

or alpha designation within one of the following groups: (1) Technical (primarily related to safety concerns); (2) environmental; or (3) miscellaneous.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 2007, 72 FR 49139 (Aug. 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the petitioner/ requestor must contact the Office of the Secretary by e-mail at *HEARINGDOCKET@NRC.GOV*, or by calling (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html*. Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html*.

Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/ petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory e-filing system may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC electronic filing Help Desk, which is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays. The toll-free help line number is (866) 672–7640. A person filing electronically may also seek assistance by sending an e-mail to the NRC electronic filing Help Desk at *MSHD.Resource@nrc.gov*.

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Time on the due date.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD._Proceeding/home.asp*, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Detailed information about the license renewal process can be found under the Nuclear Reactors icon at *http://www.nrc.gov/reactors/operating/licensing/renewal.html* on the NRC's Web site. Copies of the application to renew the operating license for DAEC are available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852–2738, and at *http://www.nrc.gov/reactors/operating/licensing/renewal/applications.html*, the NRC's Web site while the application is under review. The application may be accessed in ADAMS through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html* under ADAMS Accession Numbers ML082980481 and ML090280418. As stated above, persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS may contact the NRC Public Document Room (PDR) Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *PDR.resource@nrc.gov*.

The NRC staff has verified that a copy of the license renewal application is also available to local residents near

DAEC, at the Hiawatha Public Library, 150 West Willman Street, Hiawatha, Iowa 52233.

Dated at Rockville, Maryland, this 10th day of February, 2009.

For the Nuclear Regulatory Commission.

Brian E. Holian,

Director, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. E9–3289 Filed 2–13–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–29462; NRC–2008–0653]

Notice of Consideration of Amendment Request for Decommissioning of the Department of the Navy, Naval Surface Warfare Center Dahlgren Division, Dahlgren, VA and Opportunity To Request a Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of amendment request and opportunity to request a hearing.

DATES: A request for a hearing must be filed by April 20, 2009.

FOR FURTHER INFORMATION CONTACT: Orysia Masnyk Bailey, Health Physicist, Decommissioning Branch, Division of Nuclear Materials Safety, Region I, U.S. Nuclear Regulatory Commission, King of Prussia, PA 19406. *Telephone:* (864) 427–1032; *fax number:* (610) 680–3497; or *e-mail: Orysia.MasnykBailey@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The Nuclear Regulatory Commission (NRC) is considering issuance of a license amendment to Materials License No. 45–23645–01NA. This license is held by the Department of the Navy (Navy). This is a Master Materials License and covers many sites around the country. The proposed action pertains to Building 200 and adjacent grounds (the Facility) at the Navy'sNaval Surface Warfare Center Dahlgren Division in Dahlgren, Virginia. The amendment would authorize the decommissioning of the Facility under the Licensee's Decommissioning Plan.

An NRC administrative review found the Decommissioning Plan acceptable to begin a technical review. If the NRC approves the Decommissioning Plan, the approval will be documented in an amendment to NRC License No. 45–23645–01NA. However, before approving the proposed amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. These findings will be documented in a Safety Evaluation Report and an Environmental Assessment and/or an Environmental Impact Statement. Following completion of decommissioning activities and verification by the NRC that the radiological criteria for license termination have been met, the NRC will amend the license to authorize release of the Facility for unrestricted use.

II. Opportunity To Request a Hearing

The NRC hereby provides notice that this is a proceeding on an application for a license amendment regarding the decommissioning of Building 200 and surrounding grounds. Any person whose interest may be affected by this proceeding and who desires to participate as a party must file a request for a hearing and a specification of the contentions which the person seeks to have litigated in the hearing, in accordance with the NRC E-Filing rule. The NRC promulgated in August, 2007, 72 FR 49139 (August 28, 2007). The E-Filing rule requires participants to submit and serve documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

In order to comply with the procedural requirements of E-Filing, at least five days prior to the filing deadline, the petitioner/requester must contact the Office of the Secretary by e-mail at *HEARINGDOCKET@NRC.GOV,* or by calling (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requester (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requester will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange, a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html.* Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.*

Once a petitioner/requester has obtained a digital ID certificate, had an electronic docket created, and downloaded the Electronic Information Exchange viewer, the individual can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the filer submits its documents through the Electronic Information Exchange. To be timely, an electronic filing must be submitted to the Electronic Information Exchange system no later than 11:59 p.m. Eastern Standard Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The Electronic Information Exchange system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer does not need to serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E–Filing system.

A person filing electronically may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Standard Time, Monday through Friday. The help line number is (800) 397–4209 or locally, (301) 415–4737.

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR Part 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention:

Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted based on a balancing of the factors specified in 10 CFR Part 2.309(c)(1)(i)–(viii). In order to be considered timely, filings must be submitted no later than 11:59 p.m. Eastern Standard Time on the due date.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket, which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp* unless excluded pursuant to an Order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include social security numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The formal requirements for documents contained in 10 CFR Part 2.304(c)–(e) must be met. If the NRC grants an electronic document exemption in accordance with 10 CFR Part 2.302(g)(3), then the requirements for paper documents, set forth in 10 CFR Part 2.304(b), must be met.

In accordance with 10 CFR Part 2.309(b), a request for a hearing must be filed by April 20, 2009.

In addition to meeting other applicable requirements of 10 CFR Part 2.309, the general requirements involving a request for a hearing filed by a person other than an applicant must state:

1. The name, address, and telephone number of the requester;

2. The nature of the requester's right under the Act to be made a party to the proceeding;

3. The nature and extent of the requester's property, financial, or other interest in the proceeding;

4. The possible effect of any decision or order that may be issued in the proceeding on the requester's interest; and

5. The circumstances establishing that the request for a hearing is timely in accordance with 10 CFR Part 2.309(b).

In accordance with 10 CFR Part 2.309(f)(1), a request for hearing or petitions for leave to intervene must set forth with particularity the contentions sought to be raised. For each contention, the request or petition must:

1. Provide a specific statement of the issue of law or fact to be raised or controverted;

2. Provide a brief explanation of the basis for the contention;

3. Demonstrate that the issue raised in the contention is within the scope of the proceeding;

4. Demonstrate that the issue raised in the contention is material to the findings that the NRC must make to support the action that is involved in the proceeding;

5. Provide a concise statement of the alleged facts or expert opinions that support the requester's/petitioner's position on the issue and on which the requester/petitioner intends to rely to support its position on the issue; and

6. Provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. This information must include references to specific portions of the application (including the applicant's environmental report and safety report) that the requester/petitioner disputes and the supporting reasons for each dispute, or, if the requester/petitioner believes the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the requester's/petitioner's belief.

Requesters/petitioners should, when possible, consult with each other in preparing contentions and combine similar subject matter concerns into a joint contention, for which one of the co-sponsoring requesters/petitioners is designated the lead representative. Further, in accordance with 10 CFR Part 2.309(f)(3), any requester/petitioner that wishes to adopt a contention proposed by another requester/petitioner must do so, in accordance with the E-Filing rule, within ten days of the date that the contention is filed, and designate a representative who shall have the authority to act for the requester/petitioner.

In accordance with 10 CFR Part 2.309(g), a request for hearing and/or petition for leave to intervene may also address the selection of the hearing procedures, taking into account the provisions of 10 CFR Part 2.310.

III. Further Information

Documents related to this action, including the application for amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents related to this action are listed below, along with their ADAMS accession numbers:

1. Building 200, Bay 4 Decommissioning Assessment, ADAMS Accession No.ML063340558; and

2. Building 200 Decommissioning Plan, ADMAS Accession No. ML080980180.

If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.* These documents may also be viewed electronically on the public computers located at the NRC's Public Document Room, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The Public Document Room reproduction contractor will copy documents for a fee.

Dated at Region I, 475 Allendale Road, King of Prussia, PA, this 6th day of February, 2009.

For the Nuclear Regulatory Commission.

Randolph C. Ragland, Jr.,

Chief, Decommissioning Branch, Division of Nuclear Materials Safety, Region I.

[FR Doc. E9–3286 Filed 2–13–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Request To Amend a License for the Export of Radioactive Waste

Pursuant to 10 CFR 110.70 (b) ''Public Notice of Receipt of an Application,'' please take notice that the Nuclear Regulatory Commission (NRC) has received the following request to amend an export license. Copies of the request are available electronically through ADAMS and can be accessed through the Public Electronic Reading Room (PERR) link *http://www.nrc.gov/reading-rm.html* at the NRC Homepage.

A request for a hearing or petition for leave to intervene may be filed within thirty days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave

to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

A request for a hearing or petition for leave to intervene may be filed with the NRC electronically in accordance with NRC's E-Filing rule promulgated in August 2007, 72 FR 49139 (Aug. 28, 2007). Information about filing electronically is available on timely electronic filing, at least five days prior to the filing deadline, the petitioner/requestor should contact the Office of the Secretary by e-mail at *HEARINGDOCKET@NRC.GOV*, or by calling (301) 415–1677, to request a digital ID certificate and allow for the creation of an electronic docket.

In its review of the application for a license to export radioactive waste as defined in 10 CFR Part 110 and noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the material to be exported. The information concerning the application follows.

NRC Application To Amend License for the Export of Radioactive Waste

DESCRIPTION OF MATERIAL

Name of applicant, Date of application, Date received, Application No. Docket No.	Material type	Total quantity (Qty)	End use	Country of destination
Diversified Scientific Services, Inc. (DSSI). January 20, 2009 and October 22, 2008. January 22, 2009 and October 23, 2008. XW002/05 ..... 11004983	Class A Radioactive Mixed Waste—(in solid form).	A maximum total quantity not to exceed 30 curies (and not more than 10 curies per year) of Class A radioactive mixed waste (primarily mixed fission product radionuclides) contained in baghouse salts and ash, which result from processing liquid waste received under NRC import license IW004.	Amendment to (1) add three new ultimate consignees for return of processed waste; and (2) extend the expiration date from 12/31/10 to 12/31/13.	Canada.

For the Nuclear Regulatory Commission.

Dated this 11th day of February 2009 at Rockville, Maryland.

Scott M. Moore,

Deputy Director, Office of International Programs.

[FR Doc. E9–3389 Filed 2–13–09; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Correction to U.S. Note 1 Subchapter XXI of Chapter 98 of the Harmonized Tariff Schedule of the United States

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: This notice makes rectifications to the Harmonized Tariff Schedule of the United States (HTS) to reflect that Peru remains a designated beneficiary country for purposes of the Andean Trade Promotion and Drug Eradication Act (ATPDEA) and that the President has suspended Bolivia's designation as beneficiary country for the purposes of the ATPDEA.

DATES: Effective with respect to goods of Peru that are entered, or withdrawn from warehouse for consumption, on or after February 1, 2009, and with respect to goods of Bolivia that are entered, or withdrawn from warehouse for consumption, on or after December 15, 2008. With respect to Peru, retroactive claims are allowed through existing CBP administrative avenues.

FOR FURTHER INFORMATION CONTACT: Maríia L. Pagán, Associate General Counsel, Office of the United States Trade Representative, (202) 395–7305, regarding issues related to Peru and Shubha Sastry, Assistant General Counsel Office of the United States Trade Representative, (202) 395–3150, for issues related to Bolivia designation under the ATPDEA.

SUPPLEMENTARY INFORMATION: In Proclamation 8341 (January 16, 2009) (74 FR 4105), the President proclaimed certain changes to the HTS in order to implement the United States-Peru Trade Promotion Agreement and for other purposes. Annex I of Publication 4058 of the United States International Trade Commission, incorporated by reference into Proclamation 8341, incorrectly deleted Peru from the enumeration of designated beneficiary countries in U.S. note 1 to subchapter XXI of Chapter 98 of the HTS.

In Proclamation 8323 (November 25, 2008), the President proclaimed that U.S. note 1 to subchapter XXII of chapter 98 of the HTS was modified by removing ''Bolivia'' from the list of ATPDEA beneficiary countries. The list of ATPDEA beneficiary countries is in subchapter XXI and not XXII.

In Proclamation 6969 (January 27, 1997) (62 FR 4415), the President delegated to the United States Trade Representative (USTR) the authority under section 604 of the Trade Act of 1974 (19 U.S.C. 2483) to make rectifications, technical or conforming changes, or similar modifications to the HTS and to embody those changes in the HTS. Pursuant to the authority delegated to the USTR in Proclamation 6969, U.S. note 1 to subchapter XXI of chapter 98 of the HTS is rectified by inserting ''Peru'' in alphabetical sequence in the list of designated beneficiary countries and deleting ''Bolivia'' from that list.

Peter F. Allgeier,

Acting United States Trade Representative.

[FR Doc. E9–3395 Filed 2–13–09; 8:45 am]

BILLING CODE 3190–W9–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS387]

WTO Dispute Settlement Proceeding Regarding China—Grants, Loans and Other Incentives

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (''USTR'') is providing notice that on December 19, 2008, in accordance with the Marrakesh Agreement Establishing the World Trade Organization (''WTO Agreement''), the United States requested consultations regarding certain measures offering grants, loans, and other incentives to enterprises in China. That request may be found at *http://www.wto.org* contained in a document designated as WT/DS387/1. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before March 16, 2009 to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted electronically to *http://www.regulations.gov*, docket number USTR–2009–0003. If you are unable to provide submissions by *http://www.regulations.gov*, please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission. If (as explained below), the comment contains confidential information, then the comment should be submitted by fax only to Sandy McKinzy at (202) 395–3640.

FOR FURTHER INFORMATION CONTACT: Joseph A. Laroski Jr., Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, (202) 395–7310.

SUPPLEMENTARY INFORMATION: On December 19, 2008, the United States requested consultations regarding certain measures offering grants, loans, and other incentives to enterprises in China, apparently in part to implement an industrial policy of promoting the development of global Chinese brand names, and to increase sales of Chinese-branded and other Chinese merchandise around the world. The U.S. consultation request addresses two central government famous Chinese brand programs, and numerous sub-central government measures implementing these programs. At the central government level, China established the ''Famous Export Brand'' program and the ''China World Top Brand'' program. These measures set out criteria for an enterprise to receive a designation by the Ministry of Commerce (MOFCOM) as a ''Famous Export Brand'' or a designation by the Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) as a ''China World Top Brand.'' Enterprises with these designations are entitled to various government preferences, including, it appears, financial support tied to exports. The U.S. consultation request also addresses several independent sub-central government subsidy programs that appear to benefit Chinese exports.

A. These grants, loans, and other incentives are reflected in the following measures, as well as any amendments and any related or implementing measures:

The instruments below, which relate to the China World Top Brand Program:

1. Circular on Carrying Out Evaluation of Products to Be Recognized as China World Top Brand;
2. Circular on Application of China World Top Brands in 2006;
3. Circular on Application of China World Top Brands in 2008;
4. Measures for the Administration of Chinese Name-Brand Products;
5. Notice Concerning the Issuing of Opinions on Promoting the Brand-Driven Strategy & Its Incentive Measures;
6. Notices Concerning Printing and Distributing the Implementation Regulation on Economic Development Fund Supporting Industrial Technology Progress in Futian District Shenzhen;
7. Notices of Gansu Provincial People's Government Concerning Printing and Distributing Incentive Methods for Enterprises Entitled with Famous Brand Products in Gansu Province;
8. Notice on Methods of Implementing Brand Praise and Incentive for Industrial Enterprises in Guangxi Zhuang Autonomous Region;
9. Several Related Policies on Implementation of Guiyang's Science and Technology Development Planning During the ''Eleventh Five-Year Plan'' (2006–2010);
10. Opinions of the Party Committee and People's Government of Jinhua City on Promoting the Building of ''Jinhua Brand;''
11. Circular of Jiujiang Municipal People's Government on Adjusting and Enriching the Incentive Policy for Creating a City of Brand;
12. Circular on Printing and Distributing the Method of Nanhai District, Foshan City for Supporting and Awarding Independent Innovation, Brand Drive and Enterprise IPO;
13. Opinions of Nanping Municipal People's Government on Supporting Development of Key Industrial Enterprise;
14. Opinions on Promoting Fast and Healthy Development of Characteristic Manufacturing Industry through Implementing Industrial Upgrading Projects;
15. Circular of Sichuan Provincial People's Government on Printing and Distributing the ''Opinions on Forcefully Pressing Ahead Industrial Brands Strategy in Sichuan;''
16. Circular on Forwarding the Detailed Reward Rules for the Strategy of Drive with Top Brands in Suzhou City;
17. Circular on Forwarding the Policy Measures for Pushing on the Strategy of Drive with Top Brands;
18. Notice Issued by the Office of Wenzhou Municipal Government for the Distribution of Quality & Branding Award Management Measures in Wenzhou;
19. Opinions of Wuyi County Party Committee and People's Government on Further Encouraging and Promoting the Development of SMEs;
20. Notices Concerning Printing and Distributing the Implementing Regulations Issued by the Bureau of Finance and the Economic Development Administration of Xiamen to Support the Development of High Quality Well-Known Products in Xiamen;
21. Suggestions on Supporting Key Industrial Enterprises Issued by the People's Government of Yandu District, Yancheng City;
22. Suggestions on Accelerating the Implementation of Brand Strategy;
23. Circular on Ensuring Proper Use and Management of Guangdong Brand Development Fund; and
24. Notice of Issuing the Directive on Supporting the Development of Name Brands for Export.

The instruments below, which relate to the Chinese Famous Export Brand Program:

1. Circular of the General Office of the State Bureau of Quality Supervision, Inspection and Quarantine for Issuing the ''Measures for the Control of Evaluation of Chinese Famous-Brand Products (for Trial Implementation);''
2. Notice of General Office of Ministry of Commerce Concerning Recommending Candidates of ''Chinese Export Famous Brands;''
3. Notice of Issuing the Directive on Supporting the Development of Name Brands for Export;

4. Circular of Changxing County People's Government on Further Promoting Foreign Trade Development;
5. Opinions of Deqing County People's Government on Strengthening the Building of Advanced Manufacturing Bases;
6. Circular on Printing and Distributing the Policy Opinions for Accelerating Innovative Development of Industrial Economy;
7. Notice Concerning the Issuing of Opinions on Promoting the Brand-Driven Strategy & Its Incentive Measures;
8. Circular on Printing and Distributing the ''Provisional Regulation on the Use of Fujian Export Brand Development Fund;''
9. Circular of the Foreign Trade and Economic Cooperation Department of Fujian Province on Recommending Candidate Enterprise for the 2008–2009 ''Famous Export Brands the Foreign Trade and Economic Cooperation Department of Fujian Province Mainly Cultivates and Develops [Foreign Trade and Economic Cooperation Department of Fujian Province];
10. Circular on Printing and Distributing the Opinions on Recognizing ''Famous Export Brands the Foreign Trade and Economic Cooperation Department of Guangdong Province Mainly Cultivates and Develops;''
11. Suggestions on the ''Export Brands Particularly Cultivated and Developed by the Department of Foreign Trade and Economic Cooperation Department of Guangdong Province'' (Revised Edition);
12. Notices Concerning Alternative Name List Supplementary to the Export Brands Particularly Cultivated and Developed by the Department of Foreign Trade and Economic Cooperation of Guangdong Province;
13. Circular on Ensuring Proper Use and Management of Guangdong Brand Development Fund;
14. Notice Regarding Support Policies to Promote the Development of Our City's Foreign Trade and Economic Cooperation for 2005;
15. Notice of the Administrative Office of the Hangzhou Municipal People's Government on Revision of the Evaluation and Selection Requirements and Award Measures for the ''Golden Dragon Awards'' in Hangzhou's Foreign Trade Export;
16. Directives of the Administrative Office of the Hangzhou Municipal People's Government on Promoting the Development of Independent Export Brands;
17. Circular of the Provincial Department of Commerce, Development and Reform Commission, Economic Commission, Department of Finance, Department of Science and Technology, Bureau of State Tax, Administration for Industry and Commerce, Bureau of Quality and Technical Supervision, and Entry-Exit Inspection and Quarantine Bureau of Heilongjiang Province and Harbin Customs on Printing and Distributing the ''Guiding Opinions of Heilongjiang Province on Supporting the Development of Famous Export Brands;
18. Circular on Printing and Distributing the Newly Revised ''Method for Selection of Henan Famous Export Brands;''
19. Guiding Opinions on Supporting the Development of Henan (Famous) Export Brands in the ''11th Five-Year Plan'' Period;
20. Notice Regarding Selection of 2007–2008 ''Jiangsu Province Export Brands for Focused Cultivation and Development;''
21. Opinion on Promoting Better and Quicker Development of Private Economy;
22. Opinion of the Party Committee and People's Government of Jinhua City on Promoting the Building of ''Jinhua Brand''
23. Opinions of Jindong District Party Committee and People's Government of Jinhua City on Accelerating Industrial and Export-Oriented Economic Development;
24. Circular of Jiujiang Municipal People's Government on Adjusting and Enriching the Incentive Policy for Creating a City of Brand;
25. Circular on Printing and Distributing the Method of Nanhai District, Foshan City for Supporting and Awarding Independent Innovation, Brand Drive and Enterprise IPO;
26. Notice of the Department of Commerce and Department of Finance of Ningxia Hui Autonomous Region on Printing and Issuing the Administrative Measures of Ningxia Hui Autonomous Region for the Awarding and Promoting of Brand Export Commodities;
27. Notice of the People's Government of Quanzhou Fengze District on Issuing Regulations Concerning the Support to Key Enterprises;
28. Opinion on Promoting Fast and Healthy Development of Characteristic Manufacturing Industry through Implementing Industrial Upgrading Projects;
29. Notice on Printing and Distribution of 2006 Policies for Encouraging the Development of Foreign Trade & Economic Cooperation in Shandong;
30. Opinions of Shaoxing Municipal People's Government on Further Encouraging the Development of Open Economy in Urban Areas;
31. Circular of Sichuan Provincial People's Government on Printing and Distributing the ''Opinions on Forcefully Pressing Ahead Industrial Brands Strategy in Sichuan;''
32. Circular on Forwarding the Detailed Reward Rules for the Strategy of Drive with Top Brands in Suzhou City;
33. Circular on Forwarding the Policy Measures for Pushing on the Strategy of Drive with Top Brands;
34. Circular on Forwarding the Opinions of Foreign Trade Office of Tianjin Municipal Government on Accelerating Development of Proprietary Export Brands of Tianjin City;
35. Circular of Wuxing District People's Government of Huzhou City on Further Encouraging Foreign Trade Development;
36. Opinion of Wuyi County Party Committee and People's Government on Further Encouraging and Promoting the Development of SMEs;
37. Measures for Managing Xiamen's Key Export Enterprise Assistance Fund;
38. Notice from the Xiamen Trade Development Bureau and the Xiamen Finance Bureau on the publishing of Measures for Managing Xiamen's Key Export Enterprise Assistance Fund Implementation Plan;
39. CPC Committee of Yinzhou District, Ningbo City People's Government of Yinzhou District, Ningbo City Opinions on Promoting Economic Development of Yinzhou District;
40. Notices on Publication of Interim Procedures on Management of Zhejiang Province Export Brands Fund;
41. Notice Concerning Relevant Policies on Promotion of Foreign Trade & Economic Development in 2005;
42. Suggestions on Accelerating the Implementation of Brand Strategy;
43. Notice Issued by the Office of Wenzhou Municipal Government for the Distribution of Quality & Branding Award Management Measures in Wenzhou;
44. Opinions on Accelerating Open Economy of Organizations Directly Under Municipal Government;
45. Opinion of Nanping Municipal People's Government on Supporting Development of Key Industrial Enterprises;
46. Circular on Printing and Distributing the Interim Measures of Yangzhou City for Administration of the Incentive Fund for Famous-brand Export Products;
47. Implementing Rules of Support Policies for Patented Brands of Service Outsourcing Companies by Zhabei District;

48. Notices for Evaluation and Rewards of 2008–2009 Export Brand Particularly Cultivated and Developed in Heilongjiang;

49. Measures for the Administration of Famous-brand (Industrial) Products of Guangdong Province;

50. Measures for the Administration of Famous-Brand (Agricultural) Products of Guangdong Province; and

51. Circular of Ministry of Commerce, China Export & Credit Insurance Corporation Concerning Utilizing Export Credit Insurance to Support the Development of Name Brand Export.

The instruments below, which appear to contain independent sub-central government subsidy programs:

1. Notice Regarding Support Policies to Promote the Development of Our City's Foreign Trade and Economic Cooperation for 2005;

2. Opinions of Jindong District Party Committee and People's Government of Jinhua City on Accelerating Industrial and Export-Oriented Economic Development;

3. Opinions of Shaoxing Municipal People's Government on Further Encouraging the Development of Open Economy in Urban Areas;

4. Notice Concerning Relevant Policies on Promotion of Foreign Trade & Economic Development in 2005;

5. Circular of the Provincial Department of Commerce, Development and Reform Commission, Economic Commission, Department of Finance, Department of Science and Technology, Bureau of State Tax, Administration for Industry and Commerce, Bureau of Quality and Technical Supervision, and Entry-Exit Inspection and Quarantine Bureau of Heilongjiang Province and Harbin Customs on Printing and Distributing the ''Guiding Opinions of Heilongjiang Province on Supporting the Development of Famous Export Brands;

6. Opinions on Accelerating Open Economy of Organizations Directly Under Municipal Government;

7. Circular of Nanchang Municipal People's Government on Printing and Distributing the Interim Measures for Administration of Nanchang Foreign Trade Development Fund;

8. Trial Opinions of Jiangdong District, Ningbo City on Promoting Steady Foreign Trade Development;

9. Opinions of Jiangdong District, Ningbo City on Promoting Steady Foreign Trade Development;

10. 2005 Policies for Encouraging the Development of Foreign Trade & Economic Cooperation in Shandong;

11. Notice on Printing and Distribution of 2006 Policies for Encouraging the Development of Foreign Trade & Economic Cooperation in Shandong;

12. Notice on Printing and Distribution of 2003 Policies for Encouraging and Expanding Foreign Trade Export to Shandong;

13. 2004 Policies for Encouraging the Development of Foreign Trade & Economic Cooperation in Shandong;

14. Circular of Wuxing District People's Government on Further Encouraging the Development of Open Economy in Urban Areas;

15. Measures for Managing Xiamen's Key Export Enterprise Assistance Fund;

16. Notice from the Xiamen Trade Development Bureau and the Xiamen Finance Bureau on the publishing of Measures for Managing Xiamen's Key Export Enterprise Assistance Fund Implementation Plan;

17. Opinions on Further Accelerating the Development of Open Economy;

18. CPC Committee of Yinzhou District, Ningbo City People's Government of Yinzhou District, Ningbo City Opinions on Promoting Economic Development of Yinzhou District;

19. Notices on Publication of Interim Procedures on Management of Zhejiang Province Export Brands Fund;

20. Circular on Changxing County People's Government on Further Promoting Foreign Trade Development;

21. Notices Concerning Printing and Distributing the Implementation Regulation on Economic Development Fund Supporting Industrial Technology Progress in Futian District Shenzhen;

22. Notice Issued by the Office of Wenzhou Municipal Government for the Distribution of Quality & Branding Award Management Measures in Wenzhou;

23. Notice of the Administrative Office of the Hangzhou Municipal People's Government on Revision of the Evaluation and Selection Requirements and Award Measures for the ''Golden Dragon Awards'' in Hangzhou's Foreign Trade Export;

24. Directives of the Administrative Office of the Hangzhou Municipal People's Government on Promoting the Development of Independent Export Brands;

25. Notice of the People's Government of Quanzhou Fengze District on Issuing Regulations Concerning the Support to Key Enterprises;

26. Notice on Recommending of Alternative Name List for 2005–2006 ''Export Brand Merchandise in Shanghai;''

27. Implementing Rules of Support Policies for Patented Brands of Service Outsourcing Companies by Zhabei District;

28. Notice of Shanghai Municipal Commission of Foreign Trade and Economic Cooperation for Carrying out Confirmation of 2007–2008 ''Export Brands in Shanghai;''

29. Measures on Promoting the Development of the City OpenEconomy in 2006;

30. Notices for Evaluation and Rewards of 2008–2009 Export Brand Particularly Cultivated and Developed in Heilongjiang;

31. Notice Regarding Support Policies to Promote the Development of Our City's Foreign Trade and Economic Cooperation for 2005; and

32. Notice Regarding Selection of 2007–2008 ''Jiangsu Province Export Brands for Focused Cultivation and Development.''

B. The measures referred to in Section A above appear to constitute prohibited subsidies under WTO rules. Specifically, they provide grants, loans, and other incentives to enterprises in China on the condition that those enterprises meet certain export performance criteria .

USTR believes that these measures are inconsistent with China's obligations under Article 3 of the Agreement on Subsidies and Countervailing Measures, Articles 3, 9, and 10 of the *Agreement on Agriculture*, paragraph 12.1 of Part I of the Protocol on the Accession of the peoples' Republic of China (''Acession Protocol''), as well as paragraph 1.2 of Part I of its Accession Protocol (to the extent that it incorporates paragraph 234 of the Report of the Working Party on the Accession of China), which forms part of the terms of accession agreed between China and the WTO and is an integral part of the WTO Agreement. Finally, USTR believes that the grants, loans, and other incentives are inconsistent with Article III:4 of the GATT 1994 to the extent that the measures benefit Chinese-origin products but not imported products.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to *http://www.regulations.gov* docket number USTR–2009–0003. If you are unable to provide submissions by *http://www.regulations.gov*, please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission.

To submit comments via *http://www.regulations.gov*, enter docket number USTR–2009–0003 on the home page and click ''go''. The site will provide a search-results page listing all documents associated with this docket.

Find a reference to this notice by selecting ''Notice'' under ''Document Type'' on the left side of the search-results page, and click on the link entitled ''Send a Comment or Submission.'' (For further information on using the *http://www.regulations.gov* Web site, please consult the resources provided on the website by clicking on ''How to Use This Site'' on the left side of the home page.)

The *http://www.regulations.gov* site provides the option of providing comments by filling in a ''General Comments'' field, or by attaching a document. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type ''See attached'' in the ''General Comments'' field.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be submitted by fax to Sandy McKinzy at (202) 395–3640. A non-confidential summary of the confidential information must be submitted to *http://www.regulations.gov*. The non-confidential summary will be placed in the docket and open to public inspection.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' at the top and bottom of the cover page and each succeeding page; and

(3) Must provide a non-confidential summary of the information or advice.

Any comment containing confidential information must be submitted by fax to Sandy McKinzy at (202) 395–3640. A non-confidential summary of the confidential information must be submitted to *http://www.regulations.gov* or by fax. The non-confidential summary will be placed in the docket and open to public inspection.

USTR will maintain a docket on this dispute settlement proceeding, accessible to the public. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened or in the event of an appeal from such a panel, the U.S. submissions, any non-confidential submissions, or non-confidential summaries of submissions, received from other participants in the dispute; the report of the panel; and, if applicable, the report of the Appellate Body.

Comments will be placed in the docket and open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15 or information determined by USTR to be confidential in accordance with 19 U.S.C. 2155(g)(2). Comments open to public inspection may be viewed on the *http://www.regulations.gov* Web site.

Daniel Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. E9–3293 Filed 2–13–09; 8:45 am]

BILLING CODE 3190–W9–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS384 and WTO/DS386]

WTO Dispute Settlement Proceeding Regarding United States—Certain Country of Origin Labeling Requirements

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (''USTR'') is providing notice that the United States received requests for consultations under the *Marrakesh Agreement Establishing the World Trade Organization* (''WTO Agreement'') concerning certain mandatory country of origin labeling (COOL) requirements from Canada in a letter dated December 1, 2008 and from Mexico in a letter dated December 17, 2008. Those requests may be found at *http://www.wto.org* contained in documents designated as WT/DS384/1 for Canada and WT/DS386/1 for Mexico. USTR invites written comments from the public concerning the issues raised in these disputes.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before March 13, 2009 to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted electronically to *http://www.regulations.gov*, docket number USTR–2009–0004. If you are unable to provide submissions by *http://www.regulations.gov*, please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission. If (as explained below), the comment contains confidential information, then the comment should be submitted by fax only to Sandy McKinzy at (202) 395–3640.

FOR FURTHER INFORMATION CONTACT: Priti Seksaria Agrawal, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, (202) 395–9439.

SUPPLEMENTARY INFORMATION: USTR is providing notice that consultations have been requested pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* (''DSU''). If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within nine months after it is established.

Major Issues Raised by Canada

On December 1, 2008, Canada requested consultations regarding U.S. mandatory COOL. Canada challenges the COOL provisions in the *Agricultural Marketing Act of 1946*, as amended by the *Food, Conservation, and Energy Act, 2008* (2008 Farm Bill), and implemented in the U.S. Department of Agriculture Interim Final Rule published on August 1, 2008. These measures contain an obligation to inform consumers at the retail level of the country of origin of covered commodities, including beef and pork. Canada notes that the eligibility of a covered commodity for designation as exclusively U.S. origin occurs only when the covered commodity is derived from an animal that is exclusively born, raised, and slaughtered in the United States. It further notes that such a designation of U.S. origin excludes covered commodities from livestock that is exported to the United States for feed or immediate slaughter.

Canada alleges that the U.S. measures appear to be inconsistent with the

General Agreement on Tariffs and Trade 1994 (*GATT 1994*), Articles III:4, IX:4, and X:3, the *Agreement on Technical Barriers to Trade*, Article 2 or in the alternative, the *Agreement on the Application of Sanitary and Phytosanitary Measures*, Articles 2, 5, and 7, and the *Agreement on Rules of Origin*, Article 2. Additionally, Canada alleges these violations nullify or impair the benefits accruing to Canada under those Agreements and further appear to nullify or impair the benefits accruing to Canada in the sense of *GATT 1994*, Article XXIII:1(b).

Major Issues Raised by Mexico

On December 17, 2008, Mexico requested consultations regarding U.S. mandatory COOL. Mexico challenges the COOL provisions in the *Agricultural Marketing Act of 1946*, as amended by the *Farm, Security, and Rural Investment Act of 2002* and the *Food, Conservation, and Energy Act, 2008*, and implemented by the regulations published in 7 CFR part 60 and 65. Mexico alleges that for certain products, the determination of national origin deviates considerably from international country of origin labeling standards, which has not been justified as necessary to fulfill a legitimate objective.

Mexico further alleges that the U.S. measures appear to be inconsistent with the *General Agreement on Tariffs and Trade 1994 (GATT 1994)*, Articles III, IX, and X, the *Agreement on Technical Barriers to Trade*, Article 2 or in the alternative, the *Agreement on the Application of Sanitary and Phytosanitary Measures*, Articles 2, 5, and 7, and the *Agreement on Rules of Origin*, Article 2. Additionally, Mexico alleges these violations nullify or impair the benefits accruing to Mexico under those Agreements and further appear to nullify or impair the benefits accruing to Mexico in the sense of *GATT 1994*, Article XXIII:1(b).

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to *http://www.regulations.gov* docket number USTR–2009–0004. If you are unable to provide submissions by *http://www.regulations.gov*, please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission.

To submit comments via *http://www.regulations.gov*, enter docket number USTR–2009–0004 on the home page and click ''go''. The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting ''Notice'' under ''Document Type'' on the left side of the search-results page, and click on the link entitled ''Send a Comment or Submission.'' (For further information on using the *http://www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on ''How to Use This Site'' on the left side of the home page.)

The *http://www.regulations.gov* site provides the option of providing comments by filling in a ''General Comments'' field, or by attaching a document. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type ''See attached'' in the ''General Comments'' field.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be submitted by fax to Sandy McKinzy at (202) 395–3640. A non-confidential summary of the confidential information must be submitted to *http://www.regulations.gov*. The non-confidential summary will be placed in the docket and open to public inspection.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' at the top and bottom of the cover page and each succeeding page; and

(3) Must provide a non-confidential summary of the information or advice.

Any comment containing confidential information must be submitted by fax to Sandy McKinzy at (202) 395–3640. A non-confidential summary of the confidential information must be submitted to *http://www.regulations.gov* or by fax. The non-confidential summary will be placed in the docket and open to public inspection.

USTR will maintain a docket on this dispute settlement proceeding, accessible to the public. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened or in the event of an appeal from such a panel, the U.S. submissions, any non-confidential submissions, or non-confidential summaries of submissions, received from other participants in the dispute; the report of the panel; and, if applicable, the report of the Appellate Body.

Comments will be placed in the docket and open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15 or information determined by USTR to be confidential in accordance with 19 U.S.C. 2155(g)(2). Comments open to public inspection may be viewed on the *http://www.regulations.gov* Web site.

Daniel Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. E9–3291 Filed 2–13–09; 8:45 am]

BILLING CODE 3190–W9–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From:Securities and Exchange Commission,Office of Investor Education and Advocacy,Washington, DC 20549–0213.

Extension:

Form 8–K; OMB Control No. 3235–0060; SEC File No. 270–50.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form 8–K (17 CFR 249.308) is filed by issuers to satisfy their current reporting obligations pursuant to Sections 13 and 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m and 78o(d)) in connection with the occurrence of

significant corporate events. The purpose of Form 8–K is to provide investors with prompt disclosure of material information so that investors will be able to make investment and voting decisions better informed and receive information more timely. We estimate that Form 8–K takes 5 hours per response and is filed by 13,200 issuers 8.2 times annually for a total of 108,424 responses annually. We estimate that 75% of the 5 hours per response (3.75 hours) is prepared by the issuer for a total annual reporting burden of 406,590 hours (3.75 hours per response x 108,424 responses).

Written comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Charles Boucher, Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312; or send an e-mail to: *PRA_Mailbox@sec.gov*.

Dated: February 10, 2009.

Florence E. Harmon

Deputy Secretary.

[FR Doc. E9–3238 Filed 2–13–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Investor Education Advocacy, Washington, DC 20549–0213.

Extension:

Rule 17f–2; SEC File No. 270–233; OMB Control No. 3235–0223.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995(44 U.S.C. 350l *et seq.*), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 17f–2 (17 CFR 270.17f–2) under the Investment Company Act of 1940 (the ''Act'') (15 U.S.C. 80a–1) is entitled: ''Custody of Investments by Registered Management Investment Company.'' Rule 17f–2 establishes safeguards for arrangements in which a registered management investment company (''fund'') is deemed to maintain custody of its own assets, such as when the fund maintains its assets in a facility that provides safekeeping but not custodial services. The rule includes several recordkeeping or reporting requirements. The fund's directors must prepare a resolution designating not more than five fund officers or responsible employees who may have access to the fund's assets. The designated access persons (two or more of whom must act jointly when handling fund assets) must prepare a written notation providing certain information about each deposit or withdrawal of fund assets, and must transmit the notation to another officer or director designated by the directors. Independent public accountants must verify the fund's assets at least three times a year and two of the examinations must be unscheduled.

The requirement that directors designate access persons is intended to ensure that directors evaluate the trustworthiness of insiders who handle fund assets. The requirements that access persons act jointly in handling fund assets, prepare a written notation of each transaction, and transmit the notation to another designated person are intended to reduce the risk of misappropriation of fund assets by access persons, and to ensure that adequate records are prepared, reviewed by a responsible third person, and available for examination by the Commission's examination staff. The requirement that auditors verify fund assets without notice twice each year is intended to provide an additional deterrent to the misappropriation of fund assets and to detect any irregularities.

The Commission staff estimates that each fund makes 941 responses and spends an average of 271 hours annually in complying with the rule's requirements.[1] Commission staff estimates that on an annual basis it takes: (i) 0.5 hours of fund accounting personnel at a total cost of $75.50 to draft director resolutions;[2] (ii) 0.5 hours of the fund's board of directors at a total cost of $1000 to adopt the resolution; (iii) 263 hours for the fund's accounting personnel at a total cost of $60,864 to prepare written notations of transactions;[3] and (iv) 7 hours for the fund's accounting personnel at a total cost of $1057 to assist the independent public accountants when they perform verifications of fund assets.[4] Approximately 300 funds rely upon rule 17f–2 annually.[5] Thus, the total annual hour burden for rule 17f–2 is estimated to be 81,300 hours.[6] Based on the total costs per fund listed above, the total cost of the Rule 17f–2's collection of information requirements is estimated to be $18.9 million.[7]

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. Complying with the collections of information required by rule 17f–2 is mandatory for those funds that maintain custody of their own assets. Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503

[1] The 941 responses are: 1 (one) response to draft and adopt the resolution and 940 notations. Estimates of the number of hours are based on conversations with individuals in the mutual fund industry. The actual number of hours may vary significantly depending on individual fund assets.

[2] This estimate is based on the following calculation: 0.5 (burden hours per fund) × $151 (fund senior accountant's hourly rate) = $75.50.

[3] Respondents estimated that each fund makes 941 responses on an annual basis and spent a total of 0.28 hours per response. The fund personnel involved are Fund Payable Manager ($156 hourly rate), Fund Operations Manager ($252 hourly rate) and Fund Accounting Manager ($285 hourly rate). The weighted hourly rate of these personnel is $231. The estimated cost of preparing notations is based on the following calculation: 941 × 0.28 × $231 = $60,863.88.

[4] This estimate is based on the following calculation: 7 × $151 (fund senior accountant hourly rate) = $1057.

[5] Based on a review of Form N–17f–2 filings in 2007, the Commission staff estimates that 300 funds relied on rule 17f–2 in 2007.

[6] This estimate is based on the following calculation: 300 (funds) × 271 (total annual hourly burden per fund) = 81,300 hours for rule. The annual burden for rule 17f–2 does not include time spent preparing Form N–17f–2. The burden for Form N–17f–2 is included in a separate collection of information.

[7] This estimate is based on the following calculation: $62,996.50 (total annual cost per fund) × 300 funds = $18,898,950.

or send an email to: *Shagufta_Ahmed@omb.eop.gov*; and (ii) Charles Boucher, Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: February 4, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–3345 Filed 2–13–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 28616; 812–13586]

Eaton Vance Enhanced Equity Income Fund, et al.; Notice of Application

February 10, 2009.

Agency: Securities and Exchange Commission (''Commission'').

Action: Notice of application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 19(b) of the Act and rule 19b-1 under the Act.

Summary of Application: Applicants request an order to permit certain registered closed-end investment companies to make periodic distributions of long-term capital gains with respect to their outstanding common shares as frequently as twelve times each year, and as frequently as distributions are specified by or in accordance with the terms of any outstanding preferred shares that such investment companies may issue.

Applicants: Eaton Vance Enhanced Equity Income Fund, Eaton Vance Enhanced Equity Income Fund II, Eaton Vance Risk-Managed Diversified Equity Income Fund, Eaton Vance Tax-Managed Buy-Write Income Fund, Eaton Vance Tax-Managed Buy-Write Opportunities Fund, Eaton Vance Tax-Managed Diversified Equity Income Fund, Eaton Vance Tax-Managed Global Buy-Write Opportunities Fund, Eaton Vance Tax-Managed Global Diversified Equity Income Fund (the ''Current Funds'') and Eaton Vance Management (''Eaton Vance'').

Filing Dates: The application was filed on October 10, 2008 and amended on January 9, 2009 and February 9, 2009.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 9, 2009, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090; Applicants, Eaton Vance Building, 255 State Street, Boston, MA 02109.

FOR FURTHER INFORMATION CONTACT: Jean Minarick, Senior Counsel, at (202) 551–6811, or Julia Kim Gilmer, Branch Chief, at (202) 551–6821 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549–1520 (telephone (202) 551–5850).

Applicants' Representations

1. Each Current Fund is a registered closed-end management investment company organized as a Massachusetts business trust.[1] The common shares of the Current Funds are listed on the New York Stock Exchange. Applicants believe that the investors in the common shares of the Current Funds may prefer an investment vehicle that provides monthly distributions and a steady cash flow. Although the Current Funds have no current intention to do so, each Current Fund is authorized to issue preferred shares.

2. Eaton Vance is registered under the Investment Advisers Act of 1940 and acts as the Current Funds' investment adviser and administrator and is responsible for the overall management of the Current Funds. Each Fund will be advised by an Investment Adviser that is registered under the Advisers Act.

3. Applicants state that the Board of Trustees (the ''Board'') of each Current Fund, including a majority of the members of each of the Boards who are not ''interested persons'' of each Current Fund as defined in section 2(a)(19) of the Act (the ''Independent Trustees''), has requested and considered, and Eaton Vance provided, information regarding the purpose and terms of a proposed distribution policy, the likely effects of such policy on the Current Fund's long-term total return (in relation to market price and net asset value per common share (''NAV'')) and the relationship between the Current Funds' distribution rate on their common shares under the policy and the Current Funds' total return (in relation to NAV). Applicants state that the Independent Trustees of each Current Fund also considered what conflicts of interest Eaton Vance and its affiliated persons and the Current Funds might have with respect to the adoption or implementation of such policy. Applicants further state that after considering such information the Boards, including the Independent Trustees, of the Current Funds approved a distribution policy and related plan with respect to the Current Funds' common shares (the ''Plan'') and determined that such Plan is consistent with the Current Funds' investment objectives and in the best interests of the Current Funds' common shareholders.

4. Applicants state that the purpose of the Plan of each Current Fund is to permit the Current Fund to distribute over the course of each year, through periodic distributions as nearly equal as practicable and any required special distributions, an amount closely approximating the total taxable income of the Current Fund during such year and, if so determined by its Board, all or a portion of the returns of capital paid by portfolio companies to the Current Fund during such year. Applicants represent that each Current Fund would distribute to its common shareholders a fixed monthly percentage of the market price of the Current Fund's common shares at a particular point in time or a fixed monthly percentage of NAV at a particular time or a fixed monthly amount under the Plan, any of which may be adjusted from time to time. Applicants state that the minimum annual distribution rate

[1] Applicants request that any order issued granting the relief requested in the application also apply to any closed-end investment company currently advised or to be advised in the future by Eaton Vance (including any successor in interest) or by any entity controlling, controlled by, or under common control (within the meaning of section 2(a)(9) of the Act) with Eaton Vance (collectively, with Eaton Vance, the ''Investment Advisers'') that decides in the future to rely on the requested relief. Any Fund that relies on the requested order will comply with the terms and conditions of the application (such investment companies together with the Current Funds, the ''Funds''). A successor in interest is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization. All registered closed-end investment companies that currently intend to rely on the order are named as applicants.

with respect to a Current Fund's common shares under the Plan would be independent of the Current Fund's performance during any particular period but would be expected to correlate with the Current Fund's performance over time. Applicants explain that except for extraordinary distributions and potential increases or decreases in the final distribution periods in light of the Current Funds' performance for the entire calendar year and to enable the Current Funds to comply with the distribution requirements of subchapter M of the Internal Revenue Code of 1986 (the ''Code'') for the calendar year, each distribution on the common shares would be at the stated rate then in effect.

5. Applicants represent that the Board of each Current Fund adopted policies and procedures under rule 38a-1 under the Act that are reasonably designed to ensure that all notices required to be sent to the Current Fund's shareholders pursuant to section 19(a) of the Act, rule 19a-1 under the Act and condition IV (''19(a) Notices'') comply with condition II below, and that all other written communications by a Current Fund or its agents regarding distributions under the Plan include the disclosure required by condition III below. Applicants state that the Board of each Current Fund also adopted policies and procedures that require the Current Fund to keep records that demonstrate the Current Fund's compliance with all of the conditions of the requested order and that are necessary for each Current Fund to form the basis for, or demonstrate the calculation of, the amounts disclosed in its 19(a) Notices.

Applicants' Legal Analysis

1. Section 19(b) generally makes it unlawful for any registered investment company to make long-term capital gains distributions more than once each year. Rule 19b-1 limits the number of capital gains dividends, as defined in section 852(b)(3)(C) of the Code (''distributions''), that a fund may make with respect to any one taxable year to one, plus a supplemental ''clean up'' distribution made pursuant to section 855 of the Code not exceeding 10% of the aggregate amount distributed for the year, plus one additional capital gain dividend made in whole or in part to avoid the excise tax under section 4982 of the Code.

2. Section 6(c) provides that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Applicants state that the one of the concerns underlying section 19(b) and rule 19b–1 is that shareholders might be unable to distinguish between frequent distributions of capital gains and dividends from investment income. Applicants state, however, that rule 19a–1 effectively addresses this concern by requiring that a separate statement showing the sources of a distribution (*e.g.*, estimated net income, net short-term capital gains, net long-term capital gains and/or return of capital) accompany distributions (or the confirmation of the reinvestment of distributions) estimated to be sourced in part from capital gains or capital. Applicants state that the same information is included in the Current Funds' annual reports to shareholders and IRS Form 1099–DIV, which is sent to each common and preferred shareholder who received distributions during a particular year.

4. Applicants further state that each Fund will make the additional disclosures required by the conditions set forth below, and the Current Funds have adopted compliance policies and procedures in accordance with rule 38a–1 to ensure that all required 19(a) Notices and disclosures are sent to shareholders. Applicants argue that by providing the information required by section 19(a) and rule 19a–1, and by complying with the Plans or the distribution policy and related plan adopted by a Fund, the conditions in Section V. below and the compliance policy and procedures, each Fund's shareholders would be provided sufficient information to understand that their periodic distributions are not tied to the Fund's net investment income (which for this purpose is the Fund's taxable income other than from capital gains) and realized capital gains to date, and may not represent yield or investment return. Applicants also state that each Fund's compliance procedures and condition III set forth below will ensure that prospective shareholders and third parties are provided with the same information. Accordingly, applicants assert that continuing to subject the Funds to section 19(b) and rule 19b–1 would afford shareholders no extra protection.

5. Applicants note that section 19(b) and rule 19b–1 also were intended to prevent certain improper sales practices including, in particular, the practice of urging an investor to purchase shares of a fund on the basis of an upcoming capital gains dividend (''selling the dividend''), where the dividend would result in an immediate corresponding reduction in NAV and would be in effect a taxable return of the investor's capital. Applicants assert that the ''selling the dividend'' concern should not apply to closed-end investment companies, such as the Funds, which do not continuously distribute shares. According to applicants, if the underlying concern extends to secondary market purchases of shares of a closed-end fund that is subject to a large upcoming capital gains distribution, adoption of a periodic distribution plan actually helps minimize the concern by avoiding, through periodic distributions, any buildup of large end-of-the-year distributions.

6. Applicants also note that common shares of closed-end funds that invest primarily in equity securities often trade in the marketplace at a discount to the funds' NAV. Applicants believe that this discount may be reduced for the Funds if they are permitted to pay relatively frequent dividends on their common shares at a consistent rate, whether or not those dividends contain an element of long-term capital gain.

7. Applicants assert that the application of rule 19b–1 to a Plan or a distribution policy and related plan adopted by a Fund actually could have an undesirable influence on portfolio management decisions. Applicants state that, in the absence of an exemption from rule 19b–1, the implementation of a periodic distribution plan imposes pressure on management (i) not to realize any net long-term capital gains until the point in the year that the fund can pay all of its remaining distributions in accordance with rule 19b–1, and (ii) not to realize any long-term capital gains during any particular year in excess of the amount of the aggregate pay-out for the year (since as a practical matter excess gains must be distributed and accordingly would not be available to satisfy pay-out requirements in following years), notwithstanding that purely investment considerations might favor realization of long-term gains at different times or in different amounts. Applicants thus assert that the limitation on the number of capital gains distributions that a fund may make with respect to any one year imposed by rule 19b–1, may prevent the efficient operation of a periodic distribution plan whenever that fund's realized net long-term capital gains in any year exceed the total of the periodic

distributions that may include such capital gains under the rule.

8. In addition, Applicants assert that rule 19b–1 may cause fixed regular periodic distributions under a periodic distribution plan to be funded with returns of capital [2] (to the extent net investment income and realized short-term capital gains are insufficient to fund the distribution), even though realized net long-term capital gains otherwise could be available. To distribute all of a fund's long-term capital gains within the limits in rule 19b–1, a fund may be required to make total distributions in excess of the annual amount called for by its periodic distribution plan, or to retain and pay taxes on the excess amount. Applicants thus assert that the requested order would minimize these effects of rule 19b–1 by enabling the Funds to realize long-term capital gains as often as investment considerations dictate without fear of violating rule 19b–1.

9. Applicants state that *Revenue Ruling 89–81* under the Code requires that a fund that has both common shares and preferred shares outstanding designate the types of income, *e.g.*, investment income and capital gains, in the same proportion as the total distributions distributed to each class for the tax year. To satisfy the proportionate designation requirements of *Revenue Ruling 89–81*, whenever a fund has realized a long-term capital gain with respect to a given tax year, the fund must designate the required proportionate share of such capital gain to be included in common and preferred share dividends. Applicants state that although rule 19b–1 allows a fund some flexibility with respect to the frequency of capital gains distributions, a fund might use all of the exceptions available under the rule for a tax year and still need to distribute additional capital gains allocated to the preferred shares to comply with *Revenue Ruling 89–81.*

10. Applicants assert that the potential abuses addressed by section 19(b) and rule 19b–1 do not arise with respect to preferred shares issued by a closed-end fund. Applicants assert that such distributions are fixed or determined in periodic auctions by reference to short-term interest rates rather than by reference to performance of the issuer and *Revenue Ruling 89–81* determines the proportion of such distributions that are comprised of the long-term capital gains.

11. Applicants also submit that the ''selling the dividend'' concern is not applicable to preferred shares, which entitles a holder to no more than a periodic dividend at a fixed rate or the rate determined by the market, and, like debt securities, are priced based upon their liquidation value, dividend rate, credit quality, and frequency of payment. Applicants state that investors buy preferred shares for the purpose of receiving payments at the frequency bargained for, and do not expect the liquidation value of their shares to change.

12. Applicants request an order pursuant to section 6(c) granting an exemption from section 19(b) and rule 19b–1 to permit each Fund to make periodic long-term capital gains distributions (as described in section 852(b)(3)(C) of the Code) as often as monthly in any one taxable year in respect of its common shares and as often as specified by or determined in accordance with the terms thereof in respect of the Fund's preferred shares.[3]

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

I. *Compliance Review and Reporting:* Each Fund's chief compliance officer will: (a) report to the Fund's Board, no less frequently than once every three months or at the next regularly scheduled quarterly Board meeting, whether (i) the Fund and its Investment Adviser have complied with the conditions of the order, and (ii) a material compliance matter (as defined in rule 38a–1(e)(2) under the Act) has occurred with respect to compliance with such conditions; and (b) review the adequacy of the policies and procedures adopted by the Board no less frequently than annually.

II. Disclosures to Fund Shareholders

A. Each 19(a) Notice disseminated to the holders of the Fund's common shares, in addition to the information required by section 19(a) and rule 19a-1:

1. will provide, in a tabular or graphical format:

(a) the amount of the distribution, on a per share basis, together with the amounts of such distribution amount, on a per share basis and as a percentage of such distribution amount, from estimated: (A) Net investment income; (B) net realized short-term capital gains; (C) net realized long-term capital gains; and (D) return of capital or other capital source;

(b) the fiscal year-to-date cumulative amount of distributions, on a per share basis, together with the amounts of such cumulative amount, on a per share basis and as a percentage of such cumulative amount of distributions, from estimated: (A) Net investment income; (B) net realized short-term capital gains; (C) net realized long-term capital gains; and (D) return of capital or other capital source;

(c) the average annual total return in relation to the change in NAV for the 5-year period (or, if the Fund's history of operations is less than five years, the time period commencing immediately following the Fund's first public offering) ending on the last day of the month ended immediately prior to the most recent distribution record date compared to the current fiscal period's annualized distribution rate expressed as a percentage of NAV as of the last day of the month prior to the most recent distribution record date; and

(d) the cumulative total return in relation to the change in NAV from the last completed fiscal year to the last day of the month prior to the most recent distribution record date compared to the fiscal year-to-date cumulative distribution rate expressed as a percentage of NAV as of the last day of the month prior to the most recent distribution record date.

Such disclosure shall be made in a type size at least as large and as prominent as the estimate of the sources of the current distribution; and

2. will include the following disclosure:

(a) ''You should not draw any conclusions about the Fund's investment performance from the amount of this distribution or from the terms of the Fund's Plan'';

(b) ''The Fund estimates that it has distributed more than its income and net realized capital gains; therefore, a portion of your distribution may be a return of capital. A return of capital may occur, for example, when some or all of the money that you invested in the Fund is paid back to you. A return of capital distribution does not necessarily reflect the Fund's investment performance and should not be confused with 'yield' or 'income' '';[4] and

(c) ''The amounts and sources of distributions reported in this 19(a) Notice are only estimates and are not being provided for tax reporting

[2] Returns of capital as used in the application means return of capital for financial accounting purposes and not for tax accounting purposes.

[3] Applicants state that a future Fund that relies on the requested order will satisfy each of the representations in the application except that such representations will be made in respect of actions by the board of trustees of such future Fund and will be made at a future time.

[4] The disclosure in this condition II.A.2.(b) will be included only if the current distribution or the fiscal year-to-date cumulative distributions are estimated to include a return of capital.

purposes. The actual amounts and sources of the amounts for [accounting and] tax reporting purposes will depend upon the Fund's investment experience during the remainder of its fiscal year and may be subject to changes based on tax regulations. The Fund will send you a Form 1099–DIV for the calendar year that will tell you how to report these distributions for federal income tax purposes.'' Such disclosure shall be made in a type size at least as large as and as prominent as any other information in the 19(a) Notice and placed on the same page in close proximity to the amount and the sources of the distribution;

B. On the inside front cover of each report to shareholders under rule 30e–1 under the Act, the Fund will:

1. describe the terms of the Plan (including the fixed amount or fixed percentage of the distributions and the frequency of the distributions);

2. include the disclosure required by condition II.A.2.a above;

3. state, if applicable, that the Plan provides that the Board may amend or terminate the Plan at any time without prior notice to Fund shareholders; and

4. describe any reasonably foreseeable circumstances that might cause the Fund to terminate the Plan and any reasonably foreseeable consequences of such termination.

C. Each report provided to shareholders under rule 30e–1 under the Act and each prospectus filed with the Commission on Form N–2 under the Act, will provide the Fund's total return in relation to changes in NAV in the financial highlights table and in any discussion about the Fund's total return.

III. Disclosure to Shareholders, Prospective Shareholders and Third Parties

A. Each Fund will include the information contained in the relevant 19(a) Notice, including the disclosure required by condition II.A.2 above, in any written communication (other than a communication on Form 1099) about the Plan or distributions under the Plan by the Fund, or agents that the Fund has authorized to make such communication on the Fund's behalf, to any Fund common shareholder, prospective common shareholder or third-party information provider;

B. Each Fund will issue, contemporaneously with the issuance of any 19(a) Notice, a press release containing the information in the 19(a) Notice and file with the Commission the information contained in such 19(a) Notice, including the disclosure required by condition II.A.2 above, as an exhibit to its next filed Form N–CSR; and

C. Each Fund will post prominently a statement on its (or the Investment Adviser's) web site containing the information in each 19(a) Notice, including the disclosure required by condition II.A.2 above, and will maintain such information on such web site for at least 24 months.

IV. *Delivery of 19(a) Notices to Beneficial Owners:* If a broker, dealer, bank or other person (''financial intermediary'') holds common shares issued by a Fund in nominee name, or otherwise, on behalf of a beneficial owner, the Fund: (a) Will request that the financial intermediary, or its agent, forward the 19(a) Notice to all beneficial owners of the Fund's shares held through such financial intermediary; (b) will provide, in a timely manner, to the financial intermediary, or its agent, enough copies of the 19(a) Notice assembled in the form and at the place that the financial intermediary, or its agent, reasonably requests to facilitate the financial intermediary's sending of the 19(a) Notice to each beneficial owner of the Fund's shares; and (c) upon the request of any financial intermediary, or its agent, that receives copies of the 19(a) Notice, will pay the financial intermediary, or its agent, the reasonable expenses of sending the 19(a) Notice to such beneficial owners.

V. *Special Board Review for Funds Whose Common Shares Trade at a Premium:* If:

A. a Fund's common shares have traded on the stock exchange that they primarily trade on at the time in question at an average premium to NAV equal to or greater than 10%, as determined on the basis of the average of the discount or premium to NAV of the Fund's common shares as of the close of each trading day over a 12-week rolling period (each such 12-week rolling period ending on the last trading day of each week); and

B. the Fund's annualized distribution rate for such 12-week rolling period expressed as a percentage of NAV as of the ending date of such 12-week rolling period is greater than the Fund's average annual total return in relation to the change in NAV over the 2-year period ending on the last day of such 12-week rolling period; then:

1. At the earlier of the next regularly scheduled meeting or within four months of the last day of such 12-week rolling period, the Board including a majority of the Independent Trustees:

(a) Will request and evaluate, and the Fund's Investment Adviser will furnish, such information as may be reasonably necessary to make an informed determination of whether the Plan should be continued or continued after amendment;

(b) will determine whether continuation, or continuation after amendment, of the Plan is consistent with the Fund's investment objective(s) and policies and is in the best interests of the Fund and its shareholders, after considering the information in condition V.B.1.a above; including, without limitation:

(1) Whether the Plan is accomplishing its purpose(s);

(2) the reasonably foreseeable material effects of the Plan on the Fund's long-term total return in relation to the market price and NAV of the Fund's common shares; and

(3) the Fund's current distribution rate, as described in condition V.B above, compared to the Fund's average annual taxable income or total return over the 2-year period, as described in condition V.B, or such longer period as the Board deems appropriate; and

(c) based upon that determination, will approve or disapprove the continuation, or continuation after amendment, of the Plan; and

2. The Board will record the information considered by it, including its consideration of the factors listed in condition V.B.1.b above, and the basis for its approval or disapproval of the continuation, or continuation after amendment, of the Plan in its meeting minutes, which must be made and preserved for a period of not less than six years from the date of such meeting, the first two years in an easily accessible place.

VI. *Public Offerings:* A Fund will not make a public offering of the Fund's common shares other than:

A. a rights offering below NAV to holders of the Fund's common shares;

B. an offering in connection with a dividend reinvestment plan, merger, consolidation, acquisition, spin-off or reorganization of the Fund; or

C. an offering other than an offering described in conditions VI.A and VI.B above, provided that, with respect to such other offering:

1. the Fund's average annual distribution rate for the six months ending on the last day of the month ended immediately prior to the most recent distribution record date,[5] expressed as a percentage of NAV as of such date, is no more than 1 percentage point greater than the Fund's average

[5] If the Fund has been in operation fewer than six months, the measured period will begin immediately following the Fund's first public offering.

annual total return for the 5-year period ending on such date;[6] and

2. the transmittal letter accompanying any registration statement filed with the Commission in connection with such offering discloses that the Fund has received an order under section 19(b) to permit it to make periodic distributions of long-term capital gains with respect to its common shares as frequently as twelve times each year, and as frequently as distributions are specified in accordance with the terms of any outstanding preferred shares as such Fund may issue.

VIII. *Amendments to Rule 19b–1:* The requested order will expire on the effective date of any amendments to rule 19b–1 that provide relief permitting certain closed-end investment companies to make periodic distributions of long-term capital gains with respect to their outstanding common shares as frequently as twelve times each year.

For the Commission, by the Division of Investment Management, under delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–3232 Filed 2–13–09; 8:45 am]

BILLING CODE 8011–01–P

[6] If the Fund has been in operation fewer than five years, the measured period will begin immediately following the Fund's first public offering.

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Avicena Group, Inc., Northern Ethanol, Inc., Hydrogen Hybrid Technologies, Inc. and Stock-Trak Group, Inc.; Order of Suspension of Trading

February 12, 2009.

It appears to the Securities and Exchange Commission that the public interest and the protection of investors require a suspension of trading in the securities of Avicena Group, Inc., Northern Ethanol, Inc., Hydrogen Hybrid Technologies, Inc. and Stock-Trak Group, Inc. Questions have arisen concerning the trading in the companies' stocks and the accuracy and adequacy of publicly available information regarding the ownership and control of each company.

Avicena Group, Inc. is incorporated in Delaware and headquartered in Palo Alto, California. The company's common stock is quoted on Pink Sheets operated by Pink OTC Markets Inc. (''Pink Sheets'') under the ticker symbol ''AVCE.''

Northern Ethanol, Inc. is incorporated in Delaware and headquartered in Toronto, Ontario. The company's common stock is quoted on Pink Sheets under the ticker symbol ''NOET.''

Hydrogen Hybrid Technologies, Inc. is incorporated in Nevada and headquartered in Pickering, Ontario. The company's common stock is quoted on the OTC Bulletin Board and Pink Sheets under the ticker symbol ''HYHY.''

Stock-Trak Group, Inc. (formerly Neutron Enterprises, Inc.) is incorporated in Nevada and headquartered in Montreal, Quebec. The company's common stock is quoted on the OTC Bulletin Board and Pink Sheets under the ticker symbol ''STKG'' (formerly ''NTRN'').

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading of the securities of the above-listed companies is suspended for the period commencing at 9:30 a.m. EST, February 12, 2009, and terminating at 11:59 p.m. EST, on February 26, 2009.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–3376 Filed 2–12–09; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Carlyle Gaming & Entertainment Ltd., Daleigh Holdings Corp., Guy F. Atkinson Co. of California, Inc. (n/k/a ATKN Co. of California), Minex Resources, Inc., Pegasus Gold, Inc., Powerhouse Resources, Inc., SA Telecommunications, Inc., Storm Technology, Inc., Thorn Apple Valley, Inc., and Universal Seismic Associates, Inc. (n/k/a Pocketop Corp.); Order of Suspension of Trading

February 12, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Carlyle Gaming & Entertainment Ltd. because it has not filed any periodic reports since the period ended March 31, 1996.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Daleigh Holdings Corp. because it has not filed any periodic reports since the period ended September 30, 1996.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Guy F. Atkinson Co. of California, Inc. (n/k/a ATKN Company of California) because it has not filed any periodic reports since the period ended December 31, 1997.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Minex Resources, Inc. because it has not filed any periodic reports since the period ended November 30, 1999.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pegasus Gold, Inc. because it has not filed any periodic reports since the period ended June 30, 1998.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Powerhouse Resources, Inc. because it has not filed any periodic reports since the period ended June 30, 1995.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of SA Telecommunications, Inc. because it has not filed any periodic reports since the period ended December 31, 1997.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Storm Technology, Inc. because it has not filed any periodic reports since the period ended June 30, 1998.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Thorn Apple Valley, Inc. because it has not filed any periodic reports since the period ended March 5, 1999.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Universal Seismic Associates, Inc. (n/k/a Pocketop Corp.) because it has not filed any periodic reports since the period ended March 31, 1998.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange

Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EST on February 12, 2009, through 11:59 p.m. EST on February 26, 2009.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E9–3377 Filed 2–12–09; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59376; File No. SR–NYSEArca–2008–139]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving Proposed Rule Change Amending the Minor Rule Plan To Increase Certain Sanctions

February 10, 2009.

On December 17, 2008, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change amending NYSE Arca Rule 10.12 (Minor Rule Plan) (''MRP'') to increase the sanctions for certain market maker quoting and trading rule violations and to make other minor changes. The proposed rule change was published for comment in the **Federal Register** on January 7, 2009.[3] The Commission received no comments regarding the proposal. This order approves the proposed rule change.

The Exchange has proposed to increase the fine levels for certain market maker quoting and trading rules violations.[4] The fine levels for such violations are currently $500 (1st offense), $1,000 (2nd offense), and $1,500–$2,500 (3rd offense). The proposed rule change would increase the fine levels to $1,000 (1st offense), $2,500 (2nd offense), and $3,500 (3rd offense). The Exchange believes that the current fine levels for such violations are too low, given the serious nature of such offenses, and that the proposed increases are necessary to be an effective deterrent against future violations and a just penalty for such violations. The Exchange also proposed a few other minor changes to correct an erroneous rule reference and to include an inadvertent omission [5] in its MRP.

The Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[6] In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,[7] which requires that the rules of an exchange be designed to, among other things, protect investors and the public interest. The Commission also believes that the proposal is consistent with Sections 6(b)(1) and 6(b)(6) of the Act,[8] which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of Commission and Exchange rules. Furthermore, the Commission believes that the proposed changes to the MRP should strengthen the Exchange's ability to carry out its oversight and enforcement responsibilities as a self-regulatory organization in cases where full disciplinary proceedings are unsuitable in view of the minor nature of the particular violation. Therefore, the Commission finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d–1(c)(2) under the Act,[9] which governs minor rule violation plans.

In approving this proposed rule change, the Commission in no way minimizes the importance of compliance with NYSE Arca rules and all other rules subject to the imposition of fines under the MRP. The Commission believes that the violation of any self-regulatory organization's rules, as well as Commission rules, is a serious matter. However, the MRP provides a reasonable means of addressing rule violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects that NYSE Arca will continue to conduct surveillance with due diligence and make a determination based on its findings, on a case-by-case basis, whether a fine of more or less than the recommended amount is appropriate for a violation under the MRP or whether a violation requires formal disciplinary action under NYSE Arca Rules 10.4–10.11.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act [10] and Rule 19d–1(c)(2) under the Act,[11] that the proposed rule change (SR–NYSEArca–2008–139), as amended, be, and hereby is, approved and declared effective.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–3230 Filed 2–13–09; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 59191 (December 31, 2008), 74 FR 757.

[4] The proposed increased fines would apply to violations of the following requirements: (i) At least 75% of the trading activity of a market maker be in classes within the market maker's appointment (Rules 6.35, Commentary .03 and 6.37(h)(5)); (ii) at least 60% of a market maker's transactions be executed by the market maker in person or through an approved facility of the Exchange (Rule 6.37(d)); (iii) market makers on NYSE Arca apply for an appointment in one or more classes of options contracts (Rule 6.35); (iv) market makers, including lead market makers, must comply with certain quoting obligations (Rule 6.37B); and (v) market makers provide accurate quotations and quote markets within the prescribed maximum quote spread differentials (Rules 6.37(b)(1), 6.82(c)(1), and 6.37A(b)).

[5] The Exchange has proposed to add violations of Rule 6.37A(b) to the MRP, stating that the reference to this rule was inadvertently left off the MRP.

[6] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(b)(1) and 78f(b)(6).

[9] 17 CFR 240.19d–1(c)(2).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 240.19d–1(c)(2).

[12] 17 CFR 200.30–3(a)(12); 17 CFR 200.30–3(a)(44).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new and/or currently approved information collection.

DATES: Submit comments on or before April 20, 2009.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Gail Hepler, Chief, 7a Loan Policy, Office of Financial Assistance, Small Business Administration, 409 3rd Street, 8th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Gail Hepler, Chief, 7a Loan Policy Branch, Office of Financial Assistance, 202–205–7530, *gail.hepler@sba.gov;* Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: The information collected through these

forms is used to receive essential information from the small business applicant and the participating lender to determine eligibility and to properly evaluate and consider the merits of each loan request based on each criteria as character, capacity, credit, collateral, etc. for the purpose of extending credit under the 7(a) program.

Title: ''Applications for Business Loans''.

Description of Respondents: Applicants applying for a SBA Loan.

Form Numbers: 4, 4SCH–A, 4I, 4L.

Annual Responses: 21,000.

Annual Burden: 295,505.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Barbara Brannan, Special Assistant, Office of Surety Bond Guarantee, Small Business Administration, 409 3rd Street, 8th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Barbara Brannan, Special Assistant, Office of Surety Bond Guarantee Program, 202–205–6545, *barbara.brannan@sba.gov;* Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: SBA's Surety Bond Guarantee (SBG) Program was created to encourage surety companies to provide bonding for small contractors. The information collected on these forms is used to evaluate the capability and potential success of small contractors in the SBG Program.

Title: ''Surety Bond Guarantee Assistance''.

Description of Respondents: Small Business Contractors Applying for the Surety Bond.

Form Numbers: 990, 991, 994, 994B, 994F, 994H.

Annual Responses: 17,916.

Annual Burden: 1,959.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. E9–3182 Filed 2–13–09; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before March 19, 2009. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Data Collection for SBIR/STTR Public and Government.

SBA Form Number: N/A.

Frequency: On occasion.

Description of Respondents: All firms of individuals applying for a Phase I or Phase II award from the SBIR or STTR programs.

Responses: 37,000.

Annual Burden: 20,000.

Title: Entrepreneurial Development Impact Study.

SBA Form Number: 2214.

Frequency: On occasion.

Description of Respondents: SBA clients.

Responses: 7,378.

Annual Burden: 1,230.

Curtis B. Rich,

Acting Chief, Administrative Information Branch.

[FR Doc. E9–3183 Filed 2–13–09; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law (Pub. L.) 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions and extensions of OMB-approved Information Collections and a new collection.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and the SSA Reports Clearance Officer to the addresses or fax numbers listed below.

(OMB), Office of Management and Budget, *Attn:* Desk Officer for SSA,*Fax:* 202–395–6974,*E-mail address: OIRA_Submission@omb.eop.gov.*

(SSA), Social Security Administration, DCBFM,*Attn:* Reports Clearance Officer,1332 Annex Building,6401 Security Blvd.,Baltimore, MD 21235,*Fax:* 410–965–6400,*E-mail address: OPLM.RCO@ssa.gov.*

I. The information collection below is pending at SSA. SSA will submit it to OMB within 60 days from the date of this notice. Therefore, your comments would be most helpful if you submit them to SSA within 60 days from the date of this publication. Individuals can obtain copies of the collection instrument by calling the SSA Reports Clearance Officer at 410–965–3758 or by writing to the email address listed above.

1. Application for Search of Census Records for Proof of Age—20 CFR 404.716–0960—0097. SSA uses the information collected by the SSA–1535–U3 to provide the Census Bureau with sufficient identification information for an accurate search of census records for proof of age of an individual applying for Social Security benefits. When preferred evidence of age is not available and the available evidence is not convincing, SSA may request the U.S. Department of Commerce, Bureau of the Census, to search its records in order to establish a claimant's date of birth. The Census Bureau uses the information from a completed, signed SSA–1535–U3 to bill SSA for the search. The respondents are applicants for Social Security benefits who need to establish their date of birth as a factor of entitlement.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 18,030.

Frequency of Response: 1.

Average Burden Per Response: 12 minutes.

Estimated Annual Burden: 3,606 hours.

2. Youth Transition Process Demonstration Evaluation Data Collection—0960–0687.

Background

The purpose of the Youth Transition Demonstration (YTD) project is to help young people with disabilities make the transition from school to work. While participating in the project, youth can continue to work and/or continue their education because SSA waives certain disability program rules and offers services to youth who are receiving disability benefits or have a high probability of receiving them. We are currently implementing YTD projects in eight sites across the country. The evaluation will produce empirical evidence on the effects of the waivers and project services including educational attainment, employment, earnings, and receipt of benefits by youth with disabilities, but also on the Social Security Trust Fund and federal income tax revenues. This project is authorized by Sections 1110 and 234 of the Social Security Act.

Project Description

Given the importance of estimating YTD effects as accurately as possible, we will evaluate the project using rigorous analytic methods based on randomly assigning youth to a treatment or control group. We will conduct several data collections. These include (1) baseline interviews with youth and their parents or guardians prior to random assignment; (2) follow-up interviews at 12 and 36 months after random assignment; (3) interviews and/or roundtable discussions with local program administrators, program supervisors, and service delivery staff; and (4) focus groups of youths, their parents, and service providers. The respondents are youths with disabilities enrolled in the project; their parents or guardians; program staff; and service providers.

Type of Request: Revision of an existing OMB Clearance.

Data collection year	Collection	Number of respondents	Responses per respondent	Average burden per response (hours)	Total response burden (hours)
2009	Baseline	1,895	1	0.55	1,042
	Informed Consent	1,895	1	0.083	157
	12 Month Follow-up	1,518	1	0.83	1,260
	In-depth Interviews	120	1	0.42	50
	Focus Group	150	1	1.5	225
	Program Staff/Service Provider	80	1	1	80
	36 Month Follow-up	364	1	0.83	302
Total 2009					3,116

3. Workers' Compensation/Public Disability Questionnaire—20 CFR 404.408—0960–0247. Section 224 of the Social Security Act provides for the reduction of disability insurance benefits (DIB) when the combination of DIB and any workers' compensation (WC) and/or certain federal, state or local public disability benefits (PDB) exceeds 80% of the worker's pre-disability earnings. SSA uses Form SSA–546 to collect the data necessary to determine if the worker's receipt of WC/PDB payments will cause a reduction of DIB. The respondents are applicants for the Title II DIB.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 100,000.

Frequency of Response: 1.

Average Burden per Response: 15 minutes.

Estimated Annual Burden: 25,000 hours.

4. Statement of Funds You Provided to Another and Statement of Funds You Received—20 CFR 416.1103(f)—0960–0481. Forms SSA–2854 and SSA–2855 collect information on an SSI beneficiary's allegations that he or she borrowed funds informally from non-commercial lender, e.g. a relative or friend. The borrower/beneficiary and the lender of the funds complete these statements. Forms SSA–2854 and SSA–2855 are required to determine whether the proceeds from the transaction are income to the borrower. If the transaction constitutes a bona fide loan, then the proceeds are not income to the borrower. Form SSA–2855 (Statement of Funds You Received) requests information from the SSI applicant/recipient by personal interview. Form SSA–2854 (Statement of Funds You Provided to Another) requests information by mail from the other party to the transaction. The respondents are SSI recipients who informally borrow money and those persons who lend the funds.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 40,000.

Frequency of Response: 1.

Average Burden per Response: 10 minutes.

Estimated Annual Burden: 6,667 hours.

5. The Mental Health Treatment Study (MHTS)—0960–0726.

Background

Because of advances in medical treatment, assistive devices, changes in the way we view those with disabilities, and legislation designed to assure access to employment, SSA is taking on an increasingly active role in assisting Social Security disability beneficiaries who want to return to work. As a result, SSA developed the MHTS under Section 234 of the Social Security Act (42 U.S.C. 434), which gives the Commissioner of Social Security the authority to carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of interventions that facilitate a beneficiary's return to work. Part of the agency's role involves finding ways to promote work and increase independence among disability beneficiaries.

SSA received additional support for this study in February 2001, through President Bush's New Freedom Initiative—a comprehensive program whose primary goal is to promote the full participation of individuals with disabilities in all areas of society. The aim of the Initiative is to help Americans with disabilities by increasing their access to effective technologies, expanding educational opportunities, increasing the ability of Americans with disabilities to integrate into the workforce, and promoting increased access into daily community life. This initiative provided SSA with

the support that will enable beneficiaries to maximize their self-sufficiency and potentially enter or reenter the workforce.

MHTS Collection

The MHTS implemented a randomized trial study designed to evaluate the effect of the intervention on employment and functional outcomes for SSDI beneficiaries with a primary mental impairment of schizophrenia or affective disorder. SSA is currently implementing the MHTS in 22 demonstration sites across the United States, with one site having two locations. The study participants are SSDI beneficiaries with varying clinical and demographic characteristics, employment histories, and, sometimes, additional medical impairments. The study design has two arms: treatment (special services), and control (regular services) groups. SSA randomly assigned study participants to the treatment or control group. Each treatment or control recipient will participate for a total of 24 months following enrollment. The treatment intervention activities include the following: diagnostic psychiatric assessment, comprehensive medical assessment, systematic medication management, supporting employment, individualized clinical treatment, supplemental health insurance, coordination and payment of recipients' claims, as well as quality assurance mechanisms and adherence to treatment guidelines, with subsequent training to improve deficiencies as identified.

The comprehensive assessment of the MHTS outcomes will identify which, if any, of the interventions resulted in successful employment and functioning outcomes, and identify the characteristics of the interventions that contributed to the success. This information enables SSA to develop better ways to improve services to current and future recipients. SSA also uses this information to guide any potential changes to program rules to allow for better coordination among other federal and state programs.

Type of Request: Extension of an OMB-approved information collection.

SCREENER ESTIMATED BURDEN

Questionnaire	Frequency of response	Number of respondents	Burden per responses (minutes)	Total burden hours
Screener Survey	1	2,265	4	151

ESTIMATED BURDEN FOR TREATMENT GROUP

Questionnaire	Frequency of response	Total number of respondents[1]	Hours per response (minutes)	Total burden hours
Baseline	1	1,121	47	878
Quarterly	7	1,121	18	2,354
Follow-up	1	1,121	30	561
Total				3,793

[1] The number of respondents may reduce over time due to study withdrawals.

ESTIMATED BURDEN FOR CONTROL GROUP

Questionnaire	Frequency of response	Total number of respondents	Hours per response (minutes)	Total burden hours
Baseline	1	1,117	47 minutes	875
Quarterly	7	1,117	7 minutes	912
Follow-up	1	1,117	30 minutes	559
Total				2,346

TOTAL ESTIMATED BURDEN FOR ALL STUDY ACTIVITIES

Questionnaire	Frequency of response	Total number of respondents	Total burden hours
Screener Survey	1	2,265	151
Treatment Group	9	1,121	3,792
Control Group	9	1,117	2,345
Total		4,503	6,288

6. Application for SSA Employee Testimony—20 CFR 403.100–155—0960–0619. SSA regulations at 20 CFR 403.100–155 establish policies and procedures whereby an individual, organization, or governmental entity may request official agency information, records, or testimony of an agency employee in a legal proceeding where the agency is not a party. The request, which must be in writing to the Commissioner, must fully set out the nature and relevance of the sought testimony. Respondents are individuals

or entities who request testimony from SSA employees in a legal proceeding.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 100.

Frequency of Response: 1.

Average Burden Per Response: 60 minutes.

Estimated Annual Burden: 100 hours.

7. Self-Employment/Corporate Officer Questionnaire—20 CFR 404.435(e), 404.446—0960–0487. SSA uses Form SSA–4184 to develop earnings and corroborate the claimant's allegations of retirement when the claimant is self-employed or a corporate officer. SSA uses the information to determine an individual's Old Age, Survivors, and Disability Insurance (OASDI) benefit amount. The respondents are self-employed individuals or corporate officers who apply for OASDI benefits.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 50,000.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated Annual Burden: 16,667 hours.

8. Claimant's Medication—20 CFR 404.1512, 416.912—0960–0289. In cases where a claimant is requesting a hearing after denial of his or her claim for Social Security benefits, SSA uses Form HA–4632 to request information from the claimant regarding the medications they are using. This information helps the Administrative Law Judge (ALJ) hearing the case to inquire fully into the medical treatment the claimant is receiving and the effect of medications on the claimant's medical impairments and functional capacity. Respondents are applicants for OASDI benefits and/or Supplemental Security Income (SSI) payments.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 200,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 50,000 hours.

9. Request for Withdrawal of Application—20 CFR 404.640—0960–0015. Individuals complete Form SSA–521 to request withdrawal of an application for benefits. Individuals who wish to withdraw their applications for benefits complete this form. SSA uses the information from Form SSA–521 to process the request for withdrawal. The respondents are applicants for OASDI benefits.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 100,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 8,333 hours.

10. Authorization for the Social Security Administration to Obtain Account Records from a Financial Institution and Request for Records (Medicare Low-Income Subsidy)—0960–0729. Under the aegis of the Medicare Modernization Act of 2003, Medicare beneficiaries can apply for a subsidy for the Medicare Prescription Drug Plan (Part D) program. In some cases, SSA will need to verify the details of applicants' accounts at financial institutions to determine if they are eligible for the subsidy. Form SSA–4640 will give SSA the authority to contact financial institutions about applicants' accounts. Financial institutions will also use the form to verify the information requested by SSA. The respondents are applicants for the Medicare Part D program subsidy and financial institutions where applicants have accounts.

Type of Request: Extension of an OMB-approved information collection.

	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
Medicare Part D Subsidy Applicants	5,000	1	1	84
Financial Institutions	5,000	1	5	333
Totals	10,000			417

11. Request to Pay Civil Monetary Penalty by Installment Agreement—20 CFR 498—0960–NEW. SSA uses Form SSA–640 to obtain the information necessary to determine a repayment rate for individuals who have a civil monetary penalty imposed on them for various fraudulent conduct related to SSA-administered programs. SSA needs this financial information to ensure the repayment rate is in the best interest of both the individual and the agency. The respondents are recipients of Social Security benefits and non-entitled individuals who must pay a civil monetary penalty.

Type of Request: New information collection.

Number of Respondents: 400.

Frequency of Response: 1.

Average Burden Per Response: 120 minutes.

Estimated Annual Burden: 800 hours.

II. SSA has submitted the information collections listed below to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer at 410–965–3758, or by writing to the above listed address.

1. Report of New Information in Disability Cases—20 CFR 404.1588—0960–0071. SSA uses the information it collects on Form SSA–612 to ensure federal Old Age, Survivors, and Disability Insurance (OASDI) payments are correct. It is essential beneficiaries notify SSA of any information that may affect their continuing entitlement to disability benefits. To facilitate and encourage timely reporting of such events, SSA furnishes beneficiaries a Form SSA–612. The beneficiary completes and returns the form to SSA when there is a change in his/her circumstances. When a beneficiary reports a change, SSA investigates any reported work activity or improvement in the beneficiary's condition, updates its records, and makes necessary payment changes. The respondents are recipients of federal OASDI benefits.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 27,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 2,250 hours.

Note: This is a correction notice: SSA inadvertently published the incorrect burden information for this collection on December 02, 2008. We are correcting this error here. Previously, SSA published this collection as an extension; however, as we are revising the Privacy Act Statement, this is now a revision.

2. Statement of Marital Relationship (By one of the parties)—20 CFR 404.726—0960–0038. Where no formal marriage documentation exists, SSA

uses the information it collects on Form SSA–754–F4 to determine whether an individual applying for spousal benefits meets the criteria of common-law marriage under state law. The respondents are applicants for spouse's Social Security benefits or SSI payments. **Note:** SSA listed this information collection as an extension of an OMB-approved information collection in the 60-Day Federal **Register Notice** published on October 27, 2008; it is a revision of an OMB-approved information collection.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 30,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 15,000 hours.

3. Application for Parent's Insurance Benefits—20 CFR 404.370–404.374, 20 CFR 404.601–404.603—0960–0012. SSA uses Form SSA–7 to collect information used to entitle an individual to his or her parent's OASDI benefits. The respondents are claimants who wish to apply to receive their parent's OASDI benefits.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 315.

Frequency of Response: 1

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 79 hours.

4. Request for Waiver of Overpayment Recovery or Change in Repayment Notice—20 CFR 404.502–404.513, 404.515 and 20 CFR 416.550—416.570, 416.572—0960–0037. An individual may request waiver of recovery of an overpayment or a different repayment rate of OASDI benefits and SSI payments. To make this request, the overpaid individual uses the SSA–632–BK. The individual explains why he/she is without fault in causing the overpayment and provides financial information, so SSA can determine whether recovery would cause financial hardship. If the individual agrees to repay the overpayment, he/she can use the SSA–632–BK to request a monthly rate or to request a different rate of recovery. In those cases, the individual must provide financial information to SSA for a determination of how much the overpaid person can afford to repay each month. Respondents are overpaid beneficiaries or claimants who are requesting a waiver of recovery of the overpayment, or a lesser rate of withholding.

Type of Request: Revision of an OMB-approved information collection.

Type of request	Number of respondents	Frequency of response	Average burden per response	Total annual burden
Waiver of Overpayment (Completes Whole Form)	400,000	1	2 hours	800,000
Change in Repayment (Completes Partial Form)	100,000	1	45 minutes	75,000
Internet Instructions	500,000	1	5 minutes	41,667
Totals	1,000,000			916,667

5. You Can Make Your Payment by Credit Card—0960–0462. SSA uses the information on Forms SSA–4588 and SSA–4589 to update an individual's Social Security record to reflect payments made on their overpayment and to effect payment through the appropriate credit card company. SSA is modifying the Form SSA–4588 to include a recurring credit card payment option to allow individuals to authorize automatic monthly payments. SSA sends out the SSA–4588 with initial overpayment notices informing individuals SSA has detected an overpayment. Individuals may choose to make a one-time payment or recurring monthly payments by completing and submitting the SSA–4588.

SSA uses the Form SSA—4589 only when individuals choose to call the program service centers to make payments in lieu of completing the Form SSA–4588. An SSA debtor contact representative completes Form SSA–4589 when a debtor calls to make a payment by telephone. The debtor contact representative also uses the information from Form SSA–4589 to make recurring monthly payments via telephone call with the debtor. Respondents are OASDI beneficiaries and SSI recipients who have outstanding overpayments.

Type of Request: Revision of an OMB-approved information collection.

Form #	Number of respondents	Frequency of response	Average burden per response (minutes)	Total burden hours
SSA–4588	3,500	1	10	583
SSA–4589	36,500	1	5	3,042
Totals	40,000			3,625

6. Medical Source Statement of Ability To Do Work Related Activities (Physical and Mental)—20 CFR 404.1512–404.1514, 404.912–404.914, 404.1517, 416.917, 404.1519–404.1520, 416.919–416.920, 404.946, 416.946, 404–1546—0960–0662. SSA uses the Forms HA–1151 and HA–1152 to collect data SSA needs to determine the residual functional capacity (RFC) of individuals who are appealing denied claims for benefits based on disability. SSA uses the RFC when the agency cannot make a determination on a claim for benefits based on current work activity or on medical facts alone. The respondents are medical sources paid by SSA to provide reports either based on existing medical evidence or on consultative examinations conducted for the purposes of the report. **Note:** SSA listed this as an extension of an OMB-approved information collection in the 60-Day **Federal Register** Notice published on October 27, 2008; it is a revision of an OMB-approved collection.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 10,000.

Frequency of Response: 20.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 50,000 hours.

7. Statement of Funds You Provided to Another and Statement of Funds You

Received—20 CFR 404.1520(b), 404.1571–.1576, 404.1584–.1593 and 416.971–.976 —0960–0059. SSA's field offices use Form SSA–821–BK to obtain work information from recipients during the continuing disability review process, and whenever a work issue arises in SSI claims. SSA's processing centers and Office of Disability and International Operations use the form to obtain post-adjudicative work issues from recipients' by mail. The primary purpose of this form is to collect recipient employment information in order to determine whether or not recipients have worked in employment after becoming disabled and, if so, whether the work is substantial gainful activity. SSA will review and evaluate the data to determine if the recipient continues to meet the disability requirements of the law. The respondents are Social Security disability applicants, beneficiaries, and SSI applicants. **Note:** SSA listed this information collection as an extension of an OMB-approved information collection in the 60-Day **Federal Register** Notice published on December 11, 2008; it is a revision of an OMB-approved information collection.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 300,000.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 50,000 hours.

8. Application for Supplemental Security Income —20 CFR 416.305–416.335, Subpart C—0960–0444. Form SSA–8001–BK collects information SSA uses to determine an applicant's eligibility for SSI, and the amount of SSI payments. SSA employees secure this information during interviews conducted with members of the public who wish to file for SSI payments. SSA uses this form for two purposes: (1) To establish a disability claim, but defer the complete development of non-medical issues until SSA approves the disability, or (2) to formally deny SSI payments for non-medical reasons when information provided by the applicant results in ineligibility. The respondents are applicants for SSI payments.

Note: SSA listed this information collection as an extension of an OMB-approved information collection in the 60-Day **Federal Register** Notice published on December 11, 2008; it is a revision of an OMB-approved information collection.

Type of Request: Revision of an OMB-approved information collection.

Form type	Number of respondents	Number of minutes to complete form	Burden hours
MSSIC	711,135	15	177,784
MSSIC/Signature Proxy	237,045	14	55,311
Paper	19,351	18	5,805
Totals	967,531		238,900

9. Medicaid Use Report—20 CFR 416.268—0960–0267. SSA uses the information required by this regulation to determine if an individual is entitled to special SSI payments and, consequently, to Medicaid benefits. The respondents are SSI recipients for whom SSA has stopped payments based on earnings.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 60,000.

Frequency of Response: 1.

Average Burden Per Response: 3 minutes.

Estimated Annual Burden: 3,000 hours.

10. Claimant's Recent Medical Treatment— 20 CFR 404.1512 and 416.912—0960–0292. Each claimant who requests a hearing before an ALJ has a right to such a hearing once the Disability Determination Service (DDS), at the reconsideration level, has denied the claim. For the hearing, SSA requests the claimant complete and return the HA–4631 if the claimant's file does not reflect a current, complete medical history as the claimant proceeds through the appeals process. ALJs must obtain the information to update and complete the record and to verify the accuracy of the information. It is by this process ALJs can ascertain whether the claimant's situation has changed. The ALJ and hearing office staff use the response to make arrangements for consultative examination(s) and the attendance of an expert witness(es) at the hearing, if appropriate. During the hearing, the ALJ offers any completed questionnaires as exhibits and may use them to refresh the claimant's memory, and to inquire into the matters at issue. The respondents are claimants requesting hearings on entitlement to OASDI benefits or SSI payments.

Type of Request: Extension of an OMB-Approved Information Collection

Number of Respondents: 350,000.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 58,333 hours.

Dated: February 9, 2009.

John Biles,

Reports Clearance Officer, Center for Reports Clearance, Social Security Administration.

[FR Doc. E9–3171 Filed 2–13–09; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2008–0062]

Social Security Ruling, SSR 09–3p.; Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Acquiring and Using Information''

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling (SSR).

SUMMARY: We are giving notice of SSR 09–3p. This SSR consolidates information from our regulations, training materials, and question-and-answer documents about the functional equivalence domain of ''Acquiring and using information.'' It also explains our policy about that domain.

DATES: *Effective Date:* March 19, 2009.

FOR FURTHER INFORMATION CONTACT: Janet Truhe, Office of Disability Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–1020.

SUPPLEMENTARY INFORMATION: Although 5 U.S.C. 552(a)(1) and (a)(2) do not require us to publish this SSR, we are doing so under 20 CFR 402.35(b)(1).

SSRs make available to the public precedential decisions relating to the Federal old-age, survivors, disability,

supplemental security income, special veterans benefits, and black lung benefits programs. SSRs may be based on determinations or decisions made at all levels of administrative adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, or other interpretations of the law and regulations.

Although SSRs do not have the same force and effect as statutes or regulations, they are binding on all components of the Social Security Administration. 20 CFR 402.35(b)(1).

This SSR will be in effect until we publish a notice in the **Federal Register** that rescinds it, or publish a new SSR that replaces or modifies it.

(Catalog of Federal Domestic Assistance, Program No. 96.006 Supplemental Security Income.)

Dated: February 9, 2009.

Michael J. Astrue,

Commissioner of Social Security.

Policy Interpretation Ruling

Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Acquiring and Using Information''

Purpose: This SSR consolidates information from our regulations, training materials, and question-and-answer documents about the functional equivalence domain of ''Acquiring and using information.'' It also explains our policy about that domain.

Citations: Sections 1614(a)(3), 1614(a)(4), and 1614(c) of the Social Security Act, as amended; Regulations No. 4, subpart P, appendix 1; and Regulations No. 16, subpart I, sections 416.902, 416.906, 416.909, 416.923, 416.924, 416.924a, 416.924b, 416.925, 416.926, 416.926a, and 416.994a.

Introduction: A child [1] who applies for Supplemental Security Income (SSI) [2] is ''disabled'' if the child is not engaged in substantial gainful activity and has a medically determinable physical or mental impairment or combination of impairments [3] that results in ''marked and severe functional limitations.'' [4] 20 CFR 416.906. This means that the impairment(s) must *meet* or *medically equal* a listing in the Listing of Impairments (the listings) [5] or *functionally equal* the listings (also referred to as ''functional equivalence''). 20 CFR 416.924 and 416.926a.

As we explain in greater detail in SSR 09–1p, we always evaluate the ''whole child'' when we make a finding regarding functional equivalence, unless we can otherwise make a fully favorable determination or decision.[6] We focus first on the child's activities, and evaluate how appropriately, effectively, and independently the child functions compared to children of the same age who do not have impairments. 20 CFR 416.926a(b) and (c). We consider what activities the child cannot do, has difficulty doing, needs help doing, or is restricted from doing because of the impairment(s). 20 CFR 416.926a(a). *Activities* are everything a child does at home, at school, and in the community, 24 hours a day, 7 days a week.[7]

We next evaluate the effects of a child's impairment(s) by rating the degree to which the impairment(s) limits functioning in six ''domains.'' *Domains* are broad areas of functioning intended to capture all of what a child can or cannot do. We use the following six domains:

(1) Acquiring and using information,

(2) Attending and completing tasks,

(3) Interacting and relating with others,

(4) Moving about and manipulating objects,

(5) Caring for yourself, and

(6) Health and physical well-being.

20 CFR 416.926a(b)(1).[8]

To functionally equal the listings, an impairment(s) must be of listing-level severity; that is, it must result in ''marked'' limitations in two domains of functioning or an ''extreme'' limitation in one domain.[9] 20 CFR 416.926a(a).

Policy Interpretation

General:

In the domain of ''Acquiring and using information,'' we consider a child's ability to learn information and to think about and use the information.

Children acquire and use information at all ages for many different purposes. For example:

- An infant shakes a rattle and learns that it will produce noise.
- A toddler learns how to play simple games.
- An older child learns how to read and do arithmetic, which enables the child to act more independently, such as to make a purchase.
- A teenager may learn the rules and mechanics for driving a car.

Accordingly, this domain considers more than just assessments of cognitive ability as measured by intelligence tests, academic achievement instruments, or grades in school.

Learning and thinking begin at birth. In early infancy, children learn primarily by exploring their world through the senses (sight, sound, taste, touch, and smell), but also through movement and imitation. As they go on to engage in play, children learn about concepts (for example, ''color,'' ''shape,'' ''size,'' and ''weight''). As they learn that people, objects, and activities have names, they begin to understand that names are words, and words are symbols that ''stand for'' what is named. Over time, this understanding of concepts and symbols prepares children for using language to learn and think. Eventually, they are expected to learn to read, write, and do arithmetic, as well as to acquire new information—not only in school, but at home and in the community.

[1] The definition of disability in section 1614(a)(3)(C) of the Social Security Act (the Act) applies to any ''individual'' who has not attained age 18. In this SSR, we use the word ''child'' to refer to any such person, regardless of whether the person is considered a ''child'' for purposes of the SSI program under section 1614(c) of the Act.

[2] For simplicity, we refer in this SSR only to initial claims for benefits. However, the policy interpretations in this SSR also apply to continuing disability reviews of children under section 1614(a)(4) of the Act and 20 CFR 416.994a.

[3] We use the term ''impairment(s)'' in this SSR to refer to an ''impairment or a combination of impairments.''

[4] The impairment(s) must also satisfy the duration requirement in section 1614(a)(3)(A) of the Act; that is, it must be expected to result in death, or must have lasted or be expected to last for a continuous period of not less than 12 months.

[5] For each major body system, the listings describe impairments we consider severe enough to cause ''marked and severe functional limitations.'' 20 CFR 416.925(a); 20 CFR part 404, subpart P, appendix 1.

[6] *See* SSR 09–1p, Title XVI: Determining Childhood Disability Under the Functional Equivalence Rule—The ''Whole Child'' Approach.

[7] However, some children have chronic physical or mental impairments that are characterized by episodes of exacerbation (worsening) and remission (improvement); therefore, their level of functioning may vary considerably over time. To properly evaluate the *severity* of a child's limitations in functioning, as described in the following paragraphs, we must consider any variations in the child's level of functioning to determine the impact of the chronic illness on the child's ability to function longitudinally; that is, over time. For more information about how we evaluate the severity of a child's limitations, *see* SSR 09–1p. For a comprehensive discussion of how we document a child's functioning, including evidentiary sources, *see* SSR 09–2p, Title XVI: Determining Childhood Disability—Documenting a Child's Impairment-Related Limitations.

[8] For the first five domains, we describe typical development and functioning using five age categories: Newborns and young infants (birth to attainment of age 1); older infants and toddlers (age 1 to attainment of age 3); preschool children (age 3 to attainment of age 6); school-age children (age 6 to attainment of age 12); and adolescents (age 12 to attainment of age 18). We do not use age categories in the sixth domain because that domain does not address typical development and functioning, as we explain in SSR 09–8p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Health and Physical Well-Being.''

[9] *See* 20 CFR 416.926a(e) for definitions of the terms ''marked'' and ''extreme.''

Throughout the learning process, children have to think about and use the information they have learned. Thinking involves being able to perceive relationships (for example, over/under and near/far), reason, and make logical choices. Children may do these things by thinking in pictures, words, or both. For example, children may solve problems by watching and imitating what other people do (thinking in pictures), or by internally ''talking'' their way through them (thinking in words). Eventually, children should be able to use language to think about the world, understand others, and express themselves. As they learn more complex language, children should be able to combine ideas to solve problems and perform more complex tasks.

Both mental and physical impairments can affect a child's ability to acquire and use information. In addition to mental retardation and learning disorders, many other mental disorders can cause limitations in the domain of ''Acquiring and using information.'' For example, children with anxiety disorders may be so fearful about failing that they cannot perform learning-related tasks at school, such as taking tests or making presentations. Physical impairments, such as speech and hearing disorders, may affect a child's ability to learn, especially in the classroom. Other impairments that frequently have effects in this domain include, but are not limited to, traumatic brain injury, cerebral palsy, and meningitis.

As with limitations in any domain, we do not consider a limitation in the domain of ''Acquiring and using information'' unless it results from a medically determinable impairment(s). However, while it is common for all children to experience some difficulty acquiring and using information from time to time, a child who has significant but unexplained problems in this domain may have an impairment(s) that was not alleged or has not yet been diagnosed. In such cases, adjudicators should pursue any indications that an impairment(s) may be present.

Preschool and school evidence [10]

Because much of a preschool or school-age child's learning takes place in a school setting, preschool and school records are often a significant source of information about limitations in the domain of ''Acquiring and using information.'' Poor grades or inconsistent academic performance are among the more obvious indicators of a limitation in this domain provided they result from a medically determinable mental or physical impairment(s). Other indications in school records that a mental or physical impairment(s) may be interfering with a child's ability to acquire and use information include, but are not limited to:

- *Special education services,* such as assignment of a personal aide who helps the child with classroom activities in a regular classroom, remedial or compensatory teaching methods for academic subjects, or placement in a self-contained classroom.
- *Related services* to help the child benefit from special education, such as occupational, physical, or speech/language therapy, or psychological and counseling services.
- *Other accommodations* made for the child's impairment(s), both inside and outside the classroom, such as front-row seating in the classroom, more time to take tests, having tests read to the student, or after-school tutoring.

The kind, level, and frequency of special education, related services, or other accommodations a child receives can provide helpful information about the severity of the child's impairment(s). However, the lack of such indicators does not necessarily mean that a child has no limitations in this domain. For various reasons, some children's limitations may go unnoticed until well along in their schooling, or the children may not receive the services that they need.[11] Therefore, when we assess a child's abilities in any of the domains, we must compare the child's functioning to the functioning of same-age children without impairments based on all relevant evidence in the case record.

Although we consider formal school evidence (such as grades and aptitude and achievement test scores) in determining the severity of a child's limitations in this domain, we do not rely solely on such measures. We also consider evidence about the child's ability to learn and think from medical and other non-medical sources (including the child, if the child is old enough to provide such information), and we assess limitations in this ability in all settings, not just in school.

As already noted, we do not consider a limitation in acquiring and using information unless it results from a medically determinable impairment(s). Therefore, we do not consider limitations that are associated with academic underachievement by a student who does not have a physical or mental impairment that accounts for the limitations.

Effects in other domains:

Children who have limitations in the domain of ''Acquiring and using information'' may also have limitations in other domains. For example, mental impairments that affect a child's ability to learn may also affect a child's ability to attend or to complete tasks. In such cases, we evaluate limitations in both the domains of ''Acquiring and using information'' and ''Attending and completing tasks.'' Also, children who have language impairments often have limitations in both the domains of ''Acquiring and using information'' and ''Interacting and relating with others.''

Children who have physical impairments that affect motor functioning, which we evaluate in the domain of ''Moving about and manipulating objects,'' may also have limitations in the domain of ''Acquiring and using information.'' Symptoms associated with a physical impairment(s), such as generalized or localized pain, may interfere with a child's ability to concentrate (an effect that we evaluate in the domain of ''Attending and completing tasks''), and this will often also have effects on the child's ability in the domain of ''Acquiring and using information.'' Lastly, some medications for physical impairments may affect mental functioning, interfering with a child's ability to pay attention, remember, or follow directions. We consider these effects in the domains of ''Acquiring and using information,'' ''Attending and completing tasks,'' or both.

Therefore, as in any case, we evaluate the effects of a child's impairment(s), including the effects of medication or other treatment and therapies, in all relevant domains. Rating the limitations caused by a child's impairment(s) in each and every domain that is affected is *not* ''double-weighting'' of either the impairment(s) or its effects. Rather, it recognizes the particular effects of the child's impairment(s) in all domains involved in the child's limited activities.[12]

[10] For this domain, early intervention records can be an important source of information for children from birth to the attainment of age 3. For more information about how we consider early intervention, preschool, school, and other evidence, *see* SSRs 09–1p and 09–2p.

[11] *See* 20 CFR 416.924a(b)(7)(iv), which states that ''[t]he fact that you do or do not receive special education services does not, in itself, establish your actual limitations or abilities. Children are placed in special education settings, or are included in regular classrooms (with or without accommodation), for many reasons that may or may not be related to the level of their impairments.''

[12] For more information about how we rate limitations, including their interactive and cumulative effects, *see* SSR 09–1p.

Examples of typical functioning in the domain of ''Acquiring and using information'':

While there is a wide range of normal development, most children follow a typical course as they grow and mature. To assist adjudicators in evaluating a child's impairment-related limitations in the domain of ''Acquiring and using information,'' we provide the following examples of typical functioning drawn from our regulations, training, and case reviews. These examples are not all-inclusive, and adjudicators are not required to develop evidence about each of them. They are simply a frame of reference for determining whether children are functioning typically for their age with respect to acquiring and using information.

1. *Newborns and young infants (birth to attainment of age 1):*

- Shows interest in and explores the environment (for example, reaches for a toy).
- Engages in random actions that eventually become purposeful (for example, shakes a rattle).
- Begins to recognize and anticipate routine situations and events (for example, smiles at the sight of a stroller).
- Begins to recognize and attach meaning to everyday sounds (for example, the telephone).
- Begins to recognize and respond to familiar words (for example, own name, the name of a family member, or the word for a favorite toy or activity).

2. *Older infants and toddlers (age 1 to attainment of age 3):*

- Learns how objects go together in different ways.
- Learns through pretending that actions can represent real things.
- Understands that words represent people, things, places, and activities.
- Refers to self and things by pointing and eventually naming.
- Learns concepts and solves simple problems by purposeful experimentation (for example, taking a toy apart), imitation, constructive play (for example, building with blocks), and pretend play activities.
- Makes simple choices between two things.
- Responds to increasingly complex instructions and questions.
- Produces an increasing number of words and grammatically correct simple sentences and questions.

3. *Preschool children (age 3 to attainment of age 6):*

- Develops readiness skills needed for learning to read (for example, listening to stories, rhyming words, or matching letters).
- Develops readiness skills needed for learning to do math (for example, counting, sorting, or building with blocks).[13]
- Develops readiness skills needed for learning to write (for example, coloring, painting, copying shapes, or using scissors).
- Uses words to ask questions, give answers, describe things, provide explanations, and tell stories.
- Follows several unrelated directions (for example, ''Put your toy in the box and get your coat on.'').
- Begins to understand the order of daily routines (for example, breakfast before lunch).
- Begins to understand and remember own accomplishments.
- Begins to understand increasingly complex concepts (for example, ''time'' as in yesterday, today, and tomorrow).

4. *School-age Children (age 6 to attainment of age 12):*

- Learns to read, write, and do simple arithmetic.
- Becomes interested in new subjects and activities (for example, science experiments and stories from history).
- Demonstrates learning by producing oral and written projects, solving arithmetic problems, taking tests, doing group work, and entering into class discussions.
- Applies learning in daily activities at home and in the community (for example, reading street signs, telling time, and making change).
- Uses increasingly complex language (vocabulary and grammar) to share information, ask questions, express ideas, and respond to the opinions of others.

5. *Adolescents (age 12 to attainment of age 18):*

- Continues to demonstrate learning in academic assignments (for example, in composition, during classroom discussion, and by school laboratory experiments).
- Applies learning in daily situations without assistance (for example, going to the store, getting a book from the library, or using public transportation).
- Comprehends and expresses simple and complex ideas using increasingly complex language in academic and daily living situations.
- Learns to apply knowledge in practical ways that will help in employment (for example, carrying out instructions, completing a job application, or being interviewed by a potential employer).
- Plans ahead for future activities.
- Begins realistic occupational planning.

[13] When building with blocks, a child is learning mathematical concepts such as ''size'' and ''volume.''

Examples of limitations in the domain of ''Acquiring and using information'':

To further assist adjudicators in evaluating a child's impairment-related limitations in the domain of ''Acquiring and using information,'' we also provide the following examples of some of the limitations we consider in this domain. These examples are drawn from our regulations and training. They are not the only limitations in this domain, nor do they necessarily describe a ''marked'' or an ''extreme'' limitation.

In addition, the examples below may or may not describe limitations depending on the expected level of functioning for a given child's age. For example, a toddler would not be expected to be able to read, but a teenager would.[14]

- Does not demonstrate an understanding of words that describe concepts such as space, size, or time (for example, inside/outside, big/little, morning/night).
- Cannot rhyme words or the sounds in words.
- Has difficulty remembering what was learned in school the day before.
- Does not use language appropriate for age.
- Is not developing ''readiness skills'' the same as peers (for example, learning to count, reciting ABCs, scribbling).
- Is not reading, writing, or doing arithmetic at appropriate grade level.
- Has difficulty comprehending written or oral directions.
- Struggles with following simple instructions.
- Talks only in short, simple sentences.
- Has difficulty explaining things.

Effective date: This SSR is effective on March 19, 2009.

Cross-References: SSR 09–1p, Title XVI: Determining Childhood Disability Under the Functional Equivalence Rule—The ''Whole Child'' Approach; SSR 09–2p, Title XVI: Determining Childhood Disability—Documenting a Child's Impairment-Related Limitations; SSR 09–4p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Attending and Completing Tasks''; SSR 09–5p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Interacting and Relating with Others''; SSR 09–6p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Moving About and Manipulating Objects''; SSR 09–7p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Caring for Yourself''; SSR 09–8p, Title

[14] *See* 20 CFR 416.924b.

XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Health and Physical Well-Being''; SSR 98–1p, Determining Medical Equivalence in Title XVI Childhood Disability Claims When a Child Has Marked Limitations in Cognition and Speech; and Program Operations Manual System (POMS) DI 25225.030, DI 25225.035, DI 25225.040, DI 25225.045, DI 25225.050, and DI 25225.055.

[FR Doc. E9–3379 Filed 2–13–09; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2008–0062; Social Security Ruling, SSR 09–5p]

Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Interacting and Relating With Others''

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling (SSR).

SUMMARY: We are giving notice of SSR 09–5p. This SSR consolidates information from our regulations, training materials, and question-and-answer documents about the functional equivalence domain of ''Interacting and relating with others.'' It also explains our policy about that domain.

DATES: *Effective Date:* March 19, 2009.

FOR FURTHER INFORMATION CONTACT: Janet Truhe, Office of Disability Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–1020.

SUPPLEMENTARY INFORMATION: Although 5 U.S.C. 552(a)(1) and (a)(2) do not require us to publish this SSR, we are doing so under 20 CFR 402.35(b)(1).

SSRs make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, special veterans benefits, and black lung benefits programs. SSRs may be based on determinations or decisions made at all levels of administrative adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, or other interpretations of the law and regulations.

Although SSRs do not have the same force and effect as statutes or regulations, they are binding on all components of the Social Security Administration. 20 CFR 402.35(b)(1).

This SSR will be in effect until we publish a notice in the **Federal Register** that rescinds it, or publish a new SSR that replaces or modifies it.

(Catalog of Federal Domestic Assistance, Program No. 96.006 Supplemental Security Income.)

Dated: February 9, 2009.

Michael J. Astrue,

Commissioner of Social Security.

Policy Interpretation Ruling

Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Interacting and Relating With Others''

Purpose: This SSR consolidates information from our regulations, training materials, and question-and-answer documents about the functional equivalence domain of ''Interacting and relating with others.'' It also explains our policy about that domain.

Citations: Sections 1614(a)(3), 1614(a)(4), and 1614(c) of the Social Security Act, as amended; Regulations No. 4, subpart P, appendix 1; and Regulations No. 16, subpart I, sections 416.902, 416.906, 416.909, 416.923, 416.924, 416.924a, 416.924b, 416.925, 416.926, 416.926a, and 416.994a.

Introduction: A child [1] who applies for Supplemental Security Income (SSI) [2] is ''disabled'' if the child is not engaged in substantial gainful activity and has a medically determinable physical or mental impairment or combination of impairments [3] that results in ''marked and severe functional limitations.'' [4] 20 CFR 416.906. This means that the impairment(s) must *meet* or *medically equal* a listing in the Listing of Impairments (the listings) [5] or must *functionally equal* the listings, also referred to as ''functional equivalence.'' 20 CFR 416.924 and 416.926a.

As we explain in greater detail in SSR 09–1p, we always evaluate the ''whole child'' when we make a finding regarding functional equivalence, unless we can otherwise make a fully favorable determination or decision.[6] We focus first on the child's activities, and evaluate how appropriately, effectively, and independently the child functions compared to children of the same age who do not have impairments. 20 CFR 416.926a(b) and (c). We consider what activities the child cannot do, has difficulty doing, needs help doing, or is restricted from doing because of the impairment(s). 20 CFR 416.926a(a). *Activities* are everything a child does at home, at school, and in the community, 24 hours a day, 7 days a week.[7]

We next evaluate the effects of a child's impairment(s) by rating the degree to which the impairment(s) limits functioning in six ''domains.'' *Domains* are broad areas of functioning intended to capture all of what a child can or cannot do. We use the following six domains:

(1) Acquiring and using information,

(2) Attending and completing tasks,

(3) Interacting and relating with others,

(4) Moving about and manipulating objects,

(5) Caring for yourself, and

(6) Health and physical well-being.

20 CFR 416.926a(b)(1).[8]

To functionally equal the listings, an impairment(s) must be of listing-level severity; that is, it must result in ''marked'' limitations in two domains of

[1] The definition of disability in section 1614(a)(3)(C) of the Social Security Act (the Act) applies to any ''individual'' who has not attained age 18. In this SSR, we use the word ''child'' to refer to any such person, regardless of whether the person is considered a ''child'' for purposes of the SSI program under section 1614(c) of the Act.

[2] For simplicity, we refer in this SSR only to initial claims for benefits. However, the policy interpretations in this SSR also apply to continuing disability reviews of children under section 1614(a)(4) of the Act and 20 CFR 416.994a.

[3] We use the term ''impairment(s)'' in this SSR to refer to an ''impairment or a combination of impairments.''

[4] The impairment(s) must also satisfy the duration requirement in section 1614(a)(3)(A) of the Act; that is, it must be expected to result in death, or must have lasted or be expected to last for a continuous period of not less than 12 months.

[5] For each major body system, the listings describe impairments we consider severe enough to cause ''marked and severe functional limitations.'' 20 CFR 416.925(a); 20 CFR part 404, subpart P, appendix 1.

[6] *See* SSR 09–1p, Title XVI: Determining Childhood Disability Under the Functional Equivalence Rule—The ''Whole Child'' Approach.

[7] However, some children have chronic physical or mental impairments that are characterized by episodes of exacerbation (worsening) and remission (improvement); therefore, their level of functioning may vary considerably over time. To properly evaluate the *severity* of a child's limitations in functioning, as described in the following paragraphs, we must consider any variations in the child's level of functioning to determine the impact of the chronic illness on the child's ability to function longitudinally; that is, over time. For more information about how we evaluate the severity of a child's limitations, *see* SSR 09–1p. For a comprehensive discussion of how we document a child's functioning, including evidentiary sources, *see* SSR 09–2p, Title XVI: Determining Childhood Disability—Documenting a Child's Impairment-Related Limitations.

[8] For the first five domains, we describe typical development and functioning using five age categories: Newborns and young infants (birth to attainment of age 1); older infants and toddlers (age 1 to attainment of age 3); preschool children (age 3 to attainment of age 6); school-age children (age 6 to attainment of age 12); and adolescents (age 12 to attainment of age 18). We do not use age categories in the sixth domain because that domain does not address typical development and functioning, as we explain in SSR 09–8p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Health and Physical Well-Being.''

functioning or an ''extreme'' limitation in one domain.[9] 20 CFR 416.926a(a).

Policy Interpretation

General

In the domain of ''Interacting and relating with others,'' we consider a child's ability to initiate and respond to exchanges with other people, and to form and sustain relationships with family members, friends, and others. This domain includes all aspects of social interaction with individuals and groups at home, at school, and in the community. Important aspects of both interacting and relating are the child's response to persons in authority, compliance with rules, and regard for the possessions of others. In addition, because communication is essential to both interacting and relating, we consider in this domain the speech and language skills children need to speak intelligibly and to understand and use the language of their community.

The ability to interact and relate with others begins at birth. Children begin to use this ability in early infancy when they bond with caregivers, and use it in increasingly complicated ways as they develop and grow older.

This ability is involved in a broad range of childhood activities, such as playing, learning, and working cooperatively with others, either one-on-one or in groups. To interact and relate effectively in any activity, a child must be able to recognize, understand, and respond appropriately to emotional and behavioral cues from other people. A child whose impairment(s) limits the ability to interact and relate with others may have various kinds of difficulties. For example, the child may not understand:

- How to approach other children,
- How to initiate and sustain social exchanges, and
- How to develop meaningful relationships with others.

Children with impairment-related limitations in this domain may not be disruptive; therefore, their limitations may go unnoticed. Such children may be described as socially withdrawn or isolated, without friends, or preferring to be left alone. These children may simply not understand how to accomplish social acceptance and integration with other individuals or groups.[10] However, because children achieve much of their understanding about themselves and the world from their interactions, the impairment-related limitations of children who withdraw from social interaction may be as significant as those of children whose impairments cause them to be disruptive.

As with limitations in any domain, we do not consider a limitation in the domain of ''Interacting and relating with others'' unless it results from a medically determinable impairment(s). However, while it is common for all children to experience some difficulty interacting and relating with others from time to time, a child who has significant but unexplained problems in this domain may have an impairment(s) that was not alleged or has not yet been diagnosed. In such cases, adjudicators should pursue any indications that an impairment(s) may be present.

Interacting With Others

To interact effectively with others, children must understand how to approach another person or a group of people, and must know how to respond in an age-appropriate manner to others who approach them. They must be able to use not only words, but facial expressions, gestures, and actions. The child must also be able to use these forms of communication with different people and in different contexts throughout the day. In addition, when interacting with a parent, teacher, or other adult, the child needs to convey respect for the adult. When interacting with peers, the child needs to convey willingness to play fairly and follow the rules, consistent with expectations for the child's age. A child's interactions may be limited to a single exchange, as when buying candy at a neighborhood store, or more frequent ones, as when answering a younger sibling's questions. They may occur one-on-one, as when talking on the telephone, or in groups, as when playing with friends or participating in an organized sport.

Both physical and mental impairments can affect a child's ability to interact with others. For example, a child with a hearing impairment or abnormality of the speech mechanism (such as a repaired cleft palate) may have speech that is difficult to understand. Such a child may have difficulty describing an event to strangers. A child with attention-deficit/hyperactivity disorder may antagonize others by impulsively cutting into a line.

Relating With Others

To relate effectively with others, a child must be able to form relationships with family members, friends, and others, and to sustain those relationships over time in an age-appropriate manner. Creating relationships with others builds upon effective interaction, and involves awareness and consideration of others' feelings, helpful and cooperative behaviors, and continuing interest in the relationships.

Both physical and mental impairments can affect a child's ability to relate with others. For example, a child with a physical abnormality, such as a disfiguring burn, a missing limb, or an abnormal gait, or who uses adaptive equipment because of the impairment(s), may have difficulty making friends. A child with an anxiety disorder may be extremely uncomfortable around other children and may have difficulty spending enough time with others to maintain friendships. An autism spectrum disorder may limit a child's emotional and social responses to others.

The role of communication in interacting and relating with others

The ability to interact and relate with others requires the ability to communicate in an age-appropriate manner.[11] To communicate with others, a child needs both *speech* and *language. Speech* is the production of sounds for the purpose of oral communication.[12] *Language* provides the message of communication. It involves understanding what is heard and read (*receptive language*) and expressing what one wants to say to others, either orally or in writing (*expressive language*).[13] Within age-appropriate expectations, a child must speak clearly enough to be understood, understand the message that another person is communicating, and formulate sentences well enough to convey a

[9] *See* 20 CFR 416.926a(e) for definitions of the terms ''marked'' and ''extreme.''

[10] The mere fact that a child prefers to be alone or does not have many friends, however, does not necessarily mean that there is a limitation that should be evaluated in this domain. There must be a limitation that results from a medically determinable impairment(s).

[11] The ability to communicate is first manifested at birth. Even before speaking their first words, infants communicate through gestures and vocalizations to express feelings and needs.

[12] In addition to *articulation* (which relates to clarity), speech also concerns *fluency* (which relates to the flow of speech) and *voice* (which relates to vocal quality, pitch, and intensity). For a comprehensive discussion of speech issues in childhood disability cases, including guidelines for evaluating the severity of speech impairments, *see* SSR 98–1p, Title XVI: Determining Medical Equivalence in Childhood Disability Claims When a Child Has Marked Limitations in Cognition and Speech.

[13] When we evaluate the communication ability of children who speak a language other than English, we consider their use of their primary language (first language learned) and English. Otherwise, we might erroneously find limitations in ''Interacting and relating with others'' (or any other domain) when children are, for example, simply learning a second language or demonstrating dialectal differences.

message. An impairment(s) may affect speech, language, or both speech and language.

Communication involves using and understanding both verbal and nonverbal skills in conversation. This is the social aspect of communication, also referred to as *pragmatics.* It involves *verbal* skills related to vocabulary choice and sentence formulation, and *non-verbal* skills, such as maintaining eye contact and using gestures, facial expressions, and physical postures.[14] It also involves other ''rules'' or conversational skills, such as turn-taking, introducing and maintaining a topic, asking for clarification or giving feedback when appropriate, and using effective techniques for opening, maintaining, and closing a conversation.

When *speaking* in a conversation, a child must decide what to say and how to say it, using appropriate vocabulary and following the rules of grammar to communicate the intended message. In addition, the child must consider factors that can influence the expression of the message, including the identity of the listener (for example, parent, teacher, sibling, or friend) and the child's relationship to the listener (for example, how the child states a request to an authority figure or to a peer). The child must also pay attention to verbal and nonverbal indications of whether the listener understands the message and, if not, must be able to rephrase the message so as to be understood.

When *listening* in a conversation, a child must follow what is being communicated well enough to understand the message and, if a response is appropriate, to respond in a meaningful way. A child who has difficulty understanding either the verbal or the nonverbal message may not be able to participate appropriately in a conversation. For example, classmates may become impatient or irritated when a child is unable to understand a joke (verbal) or to interpret facial expressions (nonverbal).

The Difference Between the Domains of ''Interacting and Relating With Others'' and ''Caring for Yourself''

The domains of ''Interacting and relating with others'' and ''Caring for yourself'' are related, but different from each other. The domain of ''Interacting and relating with others'' involves a child's feelings and behavior in relation to *other people* (as when the child is playing with other children, helping a grandparent, or listening carefully to a teacher). The domain of ''Caring for yourself'' involves a child's feelings and behavior in relation to *self* (as when controlling stress in an age-appropriate manner).

A decision about which domain is appropriate for the evaluation of a specific limitation depends on the impact of the particular behavior. For example:

- If a girl with hyperactivity interrupts conversations inappropriately, we evaluate this problem in social functioning in the domain of ''Interacting and relating with others.'' However, if she impulsively runs into the street, endangering herself, we evaluate this problem in self-care in the domain of ''Caring for yourself.''
- If a boy with a language disorder avoids other children during playtime, we evaluate this problem in social functioning in the domain of ''Interacting and relating with others.'' But the child may also use language for ''self-talk'' to calm himself down in a stressful situation, so the language disorder may cause a limitation in self-regulation, which we evaluate in the domain of ''Caring for yourself.''

Some impairments may cause limitations in *both* domains. For example, a boy with Oppositional Defiant Disorder who refuses to obey a parent's instruction not to run on a slippery surface, disrespects the parent's authority and endangers himself by running instead of walking. In this case, the child's mental disorder is causing limitations in the domains of ''Interacting and relating with others'' *and* ''Caring for yourself.'' Similarly, a teenage girl with depression who avoids friends and wants to be left alone may also develop poor eating habits as a way of coping with social isolation. We evaluate the limitations resulting from her depression in both the domains of ''Interacting and relating with others'' *and* ''Caring for yourself.'' Rating the limitations caused by a child's impairment(s) in each and every domain that is affected is *not* ''double-weighting'' of either the impairment(s) or its effects. Rather, it recognizes the particular effects of the child's impairment(s) in all domains involved in the child's limited activities.[15]

Effects in Other Domains

Children with limitations in the ability to interact and relate with others may also have limitations in other domains. For example, learning and thinking also require the ability to communicate, so an impairment(s) affecting communication may cause a limitation that we evaluate in the domain of ''Acquiring and using information'' in addition to the domain of ''Interacting and relating with others.'' Therefore, as in any case, we evaluate the effects of the child's impairment(s), including the effects of medication or other treatment and therapies, in all relevant domains.

Examples of Typical Functioning in the Domain of ''Interacting and Relating With Others''

While there is a wide range of normal development, most children follow a typical course as they grow and mature. To assist adjudicators in evaluating impairment-related limitations in the domain of ''Interacting and relating with others,'' we provide the following examples of typical functioning drawn from our regulations, training, and case reviews. These examples are not all-inclusive, and adjudicators are not required to develop evidence about each of them. They are simply a frame of reference for determining whether children are functioning typically for their age with respect to the ability to interact and relate with others.

1. Newborns and Young Infants (Birth to Attainment of Age 1)

- Begins to form intimate relationships (for example, by gradually responding visually and vocally to a caregiver, and by molding body to caregiver's when held).
- Initiates early interactive games (for example, playing peek-a-boo or pat-a-cake).
- Responds to a variety of emotions (for example, returning a caregiver's smile or crying when others are showing distress).
- Begins to develop speech (beginning with vowels and consonants, first alone and then combined in babbling sounds).

2. Older Infants and Toddlers (Age 1 to Attainment of Age 3)

- Begins to separate from caregivers, although is still dependent on them.
- Expresses emotions and responds to the feelings of others.
- Initiates and maintains interactions with adults.
- Begins to understand concept of ''mine'' and ''his'' or ''hers.''
- Shows interest in, plays alongside, and eventually interacts with other children.

[14] A child's cultural background may also influence pragmatic behaviors. For example, teachers in many Northern American cultures expect children to maintain eye contact during conversations. Children from Asian backgrounds, however, are often trained to show respect for authority figures by avoiding eye contact.

[15] For more information about how we rate limitations, including their interactive and cumulative effects, *see* SSR 09–1p.

• Communicates wishes or needs, first with gestures and later with words that can be understood most of the time by people who know the child best.

3. Preschool Children (Age 3 to Attainment of Age 6)

• Socializes with children and adults.
• Begins to prefer and develops friendships with playmates the same age.
• Relates to caregivers with increasing independence.
• Uses words instead of actions to express self.
• Is better able to share, show affection, and offer help.
• Understands and obeys simple rules most of the time, and sometimes asks permission.
• Chooses own friends and plays cooperatively without continual adult supervision.
• Initiates and participates in conversations with familiar and unfamiliar listeners, using increasingly complex vocabulary and grammar.
• Speaks clearly enough to be understood by familiar and unfamiliar listeners most of the time.

4. School-Age Children (Age 6 to Attainment of Age 12)

• Develops more lasting friendships with same-age children.
• Increasingly understands how to work in groups to create projects and solve problems.
• Increasingly understands another's point of view and tolerates differences (for example, playing with children from diverse backgrounds).
• Attaches to adults other than parents (for example, teachers or club leaders), and may want to please them to gain attention.
• Shares ideas, tells stories, and speaks in a manner that can be readily understood by familiar and unfamiliar listeners.

5. Adolescents (Age 12 to Attainment of Age 18)

• Initiates and develops friendships with children of the same age.
• Relates appropriately to children of all ages and adults, both individually and in groups.
• Increasingly able to resolve conflicts between self and family members, peers, and others outside of family.
• Recognizes that there are different social rules for dealing with other children than with adults (for example, behaving casually with friends, but more formally with people in authority).
• Describes feelings, seeks information, relates events, and tells stories in all kinds of environments (for example, at home or in school) and with all kinds of people (for example, parents, siblings, friends, or classmates).
• Develops increasing desire for privacy.
• Focuses less attention on parents and more on relationships with peers.

Examples of Limitations in the Domain of ''Interacting and Relating With Others''

To further assist adjudicators in evaluating a child's impairment-related limitations in the domain of ''Interacting and relating with others,'' we also provide the following examples of some of the limitations we consider in this domain. These examples are drawn from our regulations and training. They are not the only examples of limitations in this domain, nor do they necessarily describe a ''marked'' or an ''extreme'' limitation.

In addition, the examples below may or may not describe limitations depending on the expected level of functioning for a given child's age. For example, a toddler may be appropriately fearful of meeting new people, but a teenager would be expected to interact with strangers more readily. [16]

• Does not reach out to be picked up, touched, and held by a caregiver.
• Has no close friends, or has friends who are older or younger.
• Avoids or withdraws from people he or she knows.
• Is overly anxious or fearful of meeting new people or trying new experiences.
• Has difficulty cooperating with others.
• Has difficulty playing games or sports with rules.
• Has difficulty communicating with others (for example, does not speak intelligibly or use appropriate nonverbal cues when carrying on a conversation).

DATES: *Effective date:* This SSR is effective on March 19, 2009.

Cross-References: SSR 09–1p, Title XVI: Determining Childhood Disability Under the Functional Equivalence Rule—The ''Whole Child'' Approach; SSR 09–2p, Title: Determining Childhood Disability—Documenting a Child's Impairment-Related Limitations; SSR 09–3p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Acquiring and Using Information''; SSR 09–4p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Attending and Completing Tasks''; SSR 09–6p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Moving About and Manipulating Objects''; SSR 09–7p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Caring for Yourself''; 09–8p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Health and Physical Well-Being''; SSR 98–1p, Title XVI: Determining Medical Equivalence in Childhood Disability Claims When a Child Has Marked Limitations in Cognition and Speech; and Program Operations Manual System (POMS) DI 25225.030, DI 25225.035, DI 25225.040, DI 25225.045, DI 25225.050, and DI 25225.055.

[16] *See* 20 CFR 416.924b.

[FR Doc. E9–3382 Filed 2–13–09; 8:45 am]
BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2008–0062]

Social Security Ruling, SSR 09–6p.; Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Moving About and Manipulating Objects''

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling (SSR).

SUMMARY: We are giving notice of SSR 09–6p. This SSR consolidates information from our regulations, training materials, and question-and-answer documents about the functional equivalence domain of ''Moving about and manipulating objects.'' It also explains our policy about that domain.

DATES: *Effective Date:* March 19, 2009.

FOR FURTHER INFORMATION CONTACT: Janet Truhe, Office of Disability Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–1020.

SUPPLEMENTARY INFORMATION: Although 5 U.S.C. 552(a)(1) and (a)(2) do not require us to publish this SSR, we are doing so under 20 CFR 402.35(b)(1).

SSRs make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, special veterans benefits, and black lung benefits programs. SSRs may be based on determinations or decisions made at all levels of administrative adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, or other interpretations of the law and regulations.

Although SSRs do not have the same force and effect as statutes or

regulations, they are binding on all components of the Social Security Administration. 20 CFR 402.35(b)(1).

This SSR will be in effect until we publish a notice in the **Federal Register** that rescinds it, or publish a new SSR that replaces or modifies it.

(Catalog of Federal Domestic Assistance, Program No. 96.006 Supplemental Security Income.)

Dated: February 9, 2009.

Michael J. Astrue,

Commissioner of Social Security.

Policy Interpretation Ruling

Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Moving About and Manipulating Objects''

Purpose: This SSR consolidates information from our regulations, training materials, and question-and-answer documents about the functional equivalence domain of ''Moving about and manipulating objects.'' It also explains our policy about that domain.

Citations: Sections 1614(a)(3), 1614(a)(4), and 1614(c) of the Social Security Act, as amended; Regulations No. 4, subpart P, appendix 1; and Regulations No. 16, subpart I, sections 416.902, 416.906, 416.909, 416.923, 416.924, 416.924a, 416.924b, 416.925, 416.926, 416.926a, and 416.994a.

Introduction: A child [1] who applies for Supplemental Security Income (SSI) [2] is ''disabled'' if the child is not engaged in substantial gainful activity and has a medically determinable physical or mental impairment or combination of impairments [3] that results in ''marked and severe functional limitations.'' [4] 20 CFR 416.906. This means that the impairment(s) must *meet* or *medically equal* a listing in the Listing of Impairments (the listings),[5] or *functionally equal* the listings (also referred to as ''functional equivalence''). 20 CFR 416.924 and 416.926a.

As we explain in greater detail in SSR 09–1p, we always evaluate the ''whole child'' when we make a finding regarding functional equivalence, unless we can otherwise make a fully favorable determination or decision.[6] We focus first on the child's activities, and evaluate how appropriately, effectively, and independently the child functions compared to children of the same age who do not have impairments. 20 CFR 416.926a(b) and (c). We consider what activities the child cannot do, has difficulty doing, needs help doing, or is restricted from doing because of the impairment(s). 20 CFR 416.926a(a). *Activities* are everything a child does at home, at school, and in the community, 24 hours a day, 7 days a week.[7]

We next evaluate the effects of a child's impairment(s) by rating the degree to which the impairment(s) limits functioning in six ''domains.'' *Domains* are broad areas of functioning intended to capture all of what a child can or cannot do. We use the following six domains:

(1) Acquiring and using information,
(2) Attending and completing tasks,
(3) Interacting and relating with others,
(4) Moving about and manipulating objects,
(5) Caring for yourself, and
(6) Health and physical well-being.

20 CFR 416.926a(b)(1).[8]

To functionally equal the listings, an impairment(s) must be of listing-level severity; that is, it must result in ''marked'' limitations in two domains of functioning or an ''extreme'' limitation in one domain.[9] 20 CFR 416.926a(a).

Policy Interpretation

General

In the domain of ''Moving about and manipulating objects,'' we consider the physical ability to move one's body from one place to another, and to move and manipulate things. These activities may require gross or fine motor skills, or a combination of both.

Moving one's body includes several kinds of actions, such as:

- Rolling,
- Rising or pulling up from a sitting position,
- Raising the head, arms, and legs,
- Twisting the hands and feet,
- Shifting weight while sitting or standing,
- Transferring from one surface to another,
- Lowering down to the floor, as when bending, kneeling, stooping, or crouching, and
- Moving forward and backward as when crawling, walking, running, and negotiating different terrains (for example, curbs, steps, and hills).

Moving and manipulating objects includes several kinds of actions, such as:

- Engaging the upper and lower body to push, pull, lift, or carry objects from one place to another,
- Controlling the shoulders, arms, and hands to hold or transfer objects, and
- Coordinating the eyes and hands to manipulate small objects or parts of objects.

All of these physical actions require children to exhibit varying degrees of strength, coordination, dexterity, and pace to accomplish a given task or activity (for example, getting dressed). They also require children to have a sense of where their bodies are in relation to the environment and an understanding of how their bodies move in space (for example, jumping rope). In addition, gross and fine motor skills require the integration of sensory input with motor output (for example, seeing a ball and catching it). Those skills also require the capacity for motor planning and motor memory, that is, the ability to plan, remember, and execute controlled movement (for example, riding a bicycle).

[1] The definition of disability in section 1614(a)(3)(C) of the Social Security Act (the Act) applies to any ''individual'' who has not attained age 18. In this SSR, we use the word ''child'' to refer to any such person, regardless of whether the person is considered a ''child'' for purposes of the SSI program under section 1614(c) of the Act.

[2] For simplicity, we refer in this SSR only to initial claims for benefits. However, the policy interpretations in this SSR also apply to continuing disability reviews of children under section 1614(a)(4) of the Act and 20 CFR 416.994a.

[3] We use the term ''impairment(s)'' in this SSR to refer to an ''impairment or a combination of impairments.''

[4] The impairment(s) must also satisfy the duration requirement in section 1614(a)(3)(A) of the Act; that is, it must be expected to result in death, or must have lasted or be expected to last for a continuous period of not less than 12 months.

[5] For each major body system, the listings describe impairments we consider severe enough to cause ''marked and severe functional limitations.'' 20 CFR 416.925(a); 20 CFR part 404, subpart P, appendix 1.

[6] *See* SSR 09–1p, Title XVI: Determining Childhood Disability Under the Functional Equivalence Rule—The ''Whole Child'' Approach.

[7] However, some children have chronic physical or mental impairments that are characterized by episodes of exacerbation (worsening) and remission (improvement); therefore, their level of functioning may vary considerably over time. To properly evaluate the *severity* of a child's limitations in functioning, as described in the following paragraphs, we must consider any variations in the child's level of functioning to determine the impact of the chronic illness on the child's ability to function longitudinally; that is, over time. For more information about how we evaluate the severity of a child's limitations, *see* SSR 09–1p. For a comprehensive discussion of how we document a child's functioning, including evidentiary sources, *see* SSR 09–2p, Title XVI: Determining Childhood Disability—Documenting a Child's Impairment-Related Limitations.

[8] For the first five domains, we describe typical development and functioning using five age categories: Newborns and young infants (birth to attainment of age 1); older infants and toddlers (age 1 to attainment of age 3); preschool children (age 3 to attainment of age 6); school-age children (age 6 to attainment of age 12); and adolescents (age 12 to attainment of age 18). We do not use age categories in the sixth domain because that domain does not address typical development and functioning, as we explain in SSR 09–8p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Health and Physical Well-Being.''

[9] *See* 20 CFR 416.926a(e) for definitions of the terms ''marked'' and ''extreme.''

Both physical and mental impairments can affect a child's ability to move about and manipulate objects. For example:

- A child with a benign brain tumor may have difficulty with balance.
- A child with rheumatoid arthritis may have difficulty writing.
- A child with a developmental coordination disorder may be clumsy or have slow eye-hand coordination.

Some somatoform disorders can also have effects in this domain.

Some medications can affect a child's ability to move about and manipulate objects. For example, some antidepressant medications may cause hand tremors that interfere with fine motor skills. If these effects persist over time, we consider them in this domain.

As with limitations in any domain, we do not consider a limitation in the domain of ''Moving about and manipulating objects'' unless it results from a medically determinable impairment(s). However, while it is common for some children (especially younger children) to experience some difficulty in this area from time to time, a child who has significant but unexplained problems in this domain may have an impairment(s) that was not alleged or has not yet been diagnosed. In such cases, adjudicators should pursue any indications that an impairment(s) may be present.

The Difference Between the Domains of ''Moving About and Manipulating Objects'' and ''Health and Physical Well-Being''

In the domain of ''Moving about and manipulating objects,'' we consider how well children are able to move their own bodies and handle things. We evaluate limitations of fine and gross motor movements caused by musculoskeletal and neurological impairments, by other impairments (including mental disorders) that may result in motor limitations, and by medications or other treatments that cause such limitations.

In the domain of ''Health and physical well-being,'' we consider the cumulative physical effects of physical and mental impairments and their associated treatments or therapies not addressed in the domain of ''Moving about and manipulating objects.'' We evaluate the problems of children who are physically ill or who manifest physical effects of mental impairments (except for effects on motor functioning). Physical effects, such as pain, weakness, dizziness, nausea, reduced stamina, or recurrent infections, may result from the impairment(s) itself, from medications or other treatment, or from chronic illness. These effects can determine whether a child feels well enough and has sufficient energy to engage in age-appropriate activities, either alone or with other children.[10]

In fact, an impairment(s) or its treatment may have effects in both domains when it affects fine or gross motor functioning *and* the child's general physical state. For example, some medications used to treat impairments that affect motor functioning may have physical effects (such as nausea, headaches, allergic reactions, or insomnia) that sap a child's energy or make the child feel ill. We evaluate these generalized, cumulative effects on the child's overall physical functioning in the domain of ''Health and physical well-being.'' We evaluate any limitations in fine or gross motor functioning in the domain of ''Moving about and manipulating objects.''

Effects in Other Domains

Impairments that affect motor functioning and their associated treatments can have effects in other domains as well. For example, generalized or localized pain that results from an impairment(s) may interfere with a child's ability to concentrate, an effect that we evaluate in the domain of ''Attending and completing tasks'' and often in the domain of ''Acquiring and using information.'' Pain may also cause a child to be less active socially, an effect that we evaluate in the domain of ''Interacting and relating with others.'' Some medications for physical impairments may cause restlessness, agitation, or anxiety that may affect a child's social functioning (which we evaluate in the domain of ''Interacting and relating with others'') or emotional well-being (which we evaluate in the domain of ''Caring for yourself'').[11]

Therefore, as in any case, we evaluate the effects of a child's impairment(s), including the effects of medication or other treatment and therapies, in all relevant domains. Rating the limitations caused by a child's impairment(s) in each and every domain that is affected is *not* ''double-weighting'' of either the impairment(s) or its effects. Rather, it recognizes the particular effects of the child's impairment(s) in all domains involved in the child's limited activities.[12]

Examples of Typical Functioning in the Domain of ''Moving About and Manipulating Objects''

While there is a wide range of normal development, most children follow a typical course as they grow and mature. To assist adjudicators in evaluating a child's impairment-related limitations in the domain of ''Moving about and manipulating objects,'' we provide the following examples of typical functioning drawn from our regulations, training, and case reviews. These examples are not all-inclusive, and adjudicators are not required to develop evidence about each of them. They are simply a frame of reference for determining whether children are functioning typically for their age with respect to the development and use of gross and fine motor skills.

1. *Newborns and young infants (birth to attainment of age 1)*

- Explores immediate environment by moving body and using limbs.
- Learns to hold head up, sit, crawl, and stand.
- Tries to hold onto a stable object and stand actively for brief periods.
- Begins to practice developing eye-hand control by reaching for objects or picking up small objects and dropping them into containers.

2. *Older infants and toddlers (age 1 to attainment of age 3)*

- Explores a wider area of the physical environment with steadily increasing body control and independence from others.
- Begins to walk and run without assistance, and climbs with increasing skill.
- Tries frequently to manipulate small objects and to use hands to do or get something wanted or needed.
- Uses improving motor skills to play with small blocks, scribble with crayons, and feed self.

3. *Preschool children (age 3 to attainment of age 6)*

- Walks and runs with ease.
- Climbs stairs and playground equipment with little supervision.
- Plays more independently (for example, rides a tricycle, swings self).
- Completes puzzles easily, strings beads, and builds with assortment of blocks.
- Uses crayons, markers, and small game pieces with increasing control.
- Cuts with scissors independently.
- Manipulates buttons and other fasteners.

[10] For more information about the domain of ''Health and physical well-being,'' *see* SSR 09–8p, Title XVI: Determining Childhood Disability: The Functional Equivalence Domain of ''Health and Physical Well-Being.''

[11] Further, a child may also have social difficulties because of a device used for treatment or assistance in functioning, such as a prosthesis for a missing limb or other adaptive equipment, that results in social stigma.

[12] For more information about how we rate limitations, including their interactive and cumulative effects, *see* SSR 09–1p.

4. *School-age children (age 6 to attainment of age 12)*

- Uses developing gross motor skills to move at an efficient pace at home, at school, and in the neighborhood.
- Uses increasing strength and coordination to participate in a variety of physical activities (for example, running, jumping, and throwing, kicking, catching and hitting balls).
- Applies developing fine motor skills to use many kitchen and household tools independently (for example, scissors).
- Writes with a pen or pencil.

5. *Adolescents (age 12 to attainment of age 18)*

- Uses motor skills to move easily and freely at home, at school, and in the community.
- Participates in a full range of individual and group physical fitness activities.
- Shows mature skills in activities requiring eye-hand coordination.
- Possesses the fine motor skills to write efficiently or type on a keyboard.

Examples of Limitations in the Domain of ''Moving About and Manipulating Objects''

To further assist adjudicators in evaluating a child's impairment-related limitations in the domain of ''Moving about and manipulating objects,'' we also provide the following examples of some of the limitations we consider in this domain. These examples are drawn from our regulations and training. They are not the only examples of limitations in this domain, nor do they necessarily describe a ''marked'' or an ''extreme'' limitation.

In addition, the examples below may or may not describe limitations depending on the expected level of functioning for a given child's age. For example, a teenager would be expected to run without difficulty, but a toddler would not.[13]

- Has muscle weakness, joint stiffness, or sensory loss that interferes with motor activities (for example, unintentionally drops things).
- Has trouble climbing up and down stairs, or has jerky or disorganized locomotion, or difficulty with balance.
- Has trouble coordinating gross motor movements (for example, bending, kneeling, crawling, running, jumping rope, or riding a bicycle).
- Has difficulty with sequencing hand or finger movements (for example, using utensils or manipulating buttons).
- Has difficulty with fine motor movements (for example, gripping and grasping objects).
- Has poor eye-hand coordination when using a pencil or scissors.

[13] *See* 20 CFR 416.924b.

DATES: *Effective date:* This SSR is effective on March 19, 2009.

Cross-References: SSR 09–1p, Title XVI: Determining Childhood Disability Under the Functional Equivalence Rule—The ''Whole Child'' Approach; SSR 09–2p, Title: Determining Childhood Disability—Documenting a Child's Impairment-Related Limitations; SSR 09–3p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Acquiring and Using Information''; SSR 09–4p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Attending and Completing Tasks''; SSR 09–5p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Interacting and Relating with Others''; SSR 09–7p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Caring for Yourself''; SSR 09–8p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Health and Physical Well-Being''; and Program Operations Manual System (POMS) DI 25225.030, DI 25225.035, DI 25225.040, DI 25225.045, DI 25225.050, and DI 25225.055.

[FR Doc. E9–3383 Filed 2–13–09; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2008–0062; Social Security Ruling, SSR 09–7p.]

Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Caring for Yourself''

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling (SSR).

SUMMARY: We are giving notice of SSR 09–7p. This SSR consolidates information from our regulations, training materials, and question-and-answer documents about the functional equivalence domain of ''Caring for yourself.'' It also explains our policy about that domain.

DATES: *Effective Date:* March 19, 2009.

FOR FURTHER INFORMATION CONTACT: Janet Truhe, Office of Disability Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–1020.

SUPPLEMENTARY INFORMATION: Although 5 U.S.C. 552(a)(1) and (a)(2) do not require us to publish this SSR, we are doing so under 20 CFR 402.35(b)(1).

SSRs make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, special veterans benefits, and black lung benefits programs. SSRs may be based on determinations or decisions made at all levels of administrative adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, or other interpretations of the law and regulations.

Although SSRs do not have the same force and effect as statutes or regulations, they are binding on all components of the Social Security Administration. 20 CFR 402.35(b)(1).

This SSR will be in effect until we publish a notice in the **Federal Register** that rescinds it, or publish a new SSR that replaces or modifies it.

(Catalog of Federal Domestic Assistance, Program No. 96.006 Supplemental Security Income.)

Dated: February 9, 2009.

Michael J. Astrue,

Commissioner of Social Security.

Policy Interpretation Ruling

Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Caring for Yourself''

Purpose: This SSR consolidates information from our regulations, training materials, and question-and-answer documents about the functional equivalence domain of ''Caring for yourself.'' It also explains our policy about that domain.

Citations: Sections 1614(a)(3), 1614(a)(4), and 1614(c) of the Social Security Act, as amended; Regulations No. 4, subpart P, appendix 1; and Regulations No. 16, subpart I, sections 416.902, 416.906, 416.909, 416.923, 416.924, 416.924a, 416.924b, 416.925, 416.926, 416.926a, 416.930, and 416.994a.

Introduction: A child[1] who applies for Supplemental Security Income (SSI)[2] is ''disabled'' if the child is not engaged in substantial gainful activity and has a medically determinable physical or mental impairment or

[1] The definition of disability in section 1614(a)(3)(C) of the Social Security Act (the Act) applies to any ''individual'' who has not attained age 18. In this SSR, we use the word ''child'' to refer to any such person, regardless of whether the person is considered a ''child'' for purposes of the SSI program under section 1614(c) of the Act.

[2] For simplicity, we refer in this SSR only to initial claims for benefits. However, the policy interpretations in this SSR also apply to continuing disability reviews of children under section 1614(a)(4) of the Act and 20 CFR 416.994a.

combination of impairments [3] that results in ''marked and severe functional limitations.'' [4] 20 CFR 416.906. This means that the impairment(s) must *meet* or *medically equal* a listing in the Listing of Impairments (the listings) [5] or *functionally equal* the listings (also referred to as ''functional equivalence''). 20 CFR 416.924 and 416.926a.

As we explain in greater detail in SSR 09–1p, we always evaluate the ''whole child'' when we make a finding regarding functional equivalence, unless we can otherwise make a fully favorable determination or decision.[6] We focus first on the child's activities, and evaluate how appropriately, effectively, and independently the child functions compared to children of the same age who do not have impairments. 20 CFR 416.926a(b) and (c). We consider what activities the child cannot do, has difficulty doing, needs help doing, or is restricted from doing because of the impairment(s). 20 CFR 416.926a(a). *Activities* are everything a child does at home, at school, and in the community, 24 hours a day, 7 days a week.[7]

We next evaluate the effects of a child's impairment(s) by rating the degree to which the impairment(s) limits functioning in six ''domains.'' *Domains* are broad areas of functioning intended to capture all of what a child can or cannot do. We use the following six domains:

(1) Acquiring and using information,
(2) Attending and completing tasks,
(3) Interacting and relating with others,
(4) Moving about and manipulating objects,
(5) Caring for yourself, and
(6) Health and physical well-being.

20 CFR 416.926a(b)(1).[8]

To functionally equal the listings, an impairment(s) must be of listing-level severity; that is, it must result in ''marked'' limitations in two domains of functioning or an ''extreme'' limitation in one domain.[9] 20 CFR 416.926a(a).

Policy Interpretation

General

In the domain of ''Caring for yourself,'' we consider a child's ability to maintain a healthy *emotional* and *physical* state. This includes:

- How well children get their emotional and physical wants and needs met in appropriate ways,
- How children cope with stress and changes in the environment, and
- How well children take care of their own health, possessions, and living area.

Although newborns and young infants are almost entirely dependent on caregivers for getting their emotional and physical wants and needs met, the ability to care for oneself is first manifested at birth. For example, a young infant who feels upset (an emotional need) or hungry (a physical need) may cry to alert a caregiver. As children mature, they are expected to deal with emotional and physical wants and needs with increasing competence and independence.

However, the domain of ''Caring for yourself'' does not address children's *physical* abilities to perform self-care tasks like bathing, getting dressed, or cleaning up their room. We address these physical abilities in the domain of ''Moving about and manipulating objects'' and, if appropriate, ''Health and physical well-being.'' [10] Nor does it concern the ability to relate to other people, which we address in the domain of ''Interacting and relating with others.'' Rather, in ''Caring for yourself,'' we focus on how well a child relates to *self* by maintaining a healthy emotional and physical state in ways that are age-appropriate and in comparison to other same-age children who do not have impairments.

A child may have limitations in the domain of ''Caring for yourself'' because of a mental or a physical impairment(s), medication, or other treatment. For example, if an adolescent who is prescribed a medication that causes weight gain frequently fails or refuses to take it because of embarrassment about his weight, thereby endangering his health, we would evaluate this limitation in the domain of ''Caring for yourself.'' [11]

As with limitations in any domain, we do not consider a limitation in the domain of ''Caring for yourself'' unless it results from a medically determinable impairment(s). However, while it is common for all children to experience some difficulty in this area from time to time, a child who has significant but unexplained problems in this domain may have an impairment(s) that was not alleged or has not yet been diagnosed. In such cases, adjudicators should pursue any indications that an impairment(s) may be present.

Emotional Wants and Needs

Children must learn to recognize and respond appropriately to their feelings in ways that meet their emotional wants and needs; for example, seeking comfort when sad, expressing enthusiasm and joy when glad, and showing anger safely when upset. To be successful as they mature, children must also be able to cope with negative feelings and express positive feelings appropriately. In

[3] We use the term ''impairment(s)'' in this SSR to refer to an ''impairment or a combination of impairments.''

[4] The impairment(s) must also satisfy the duration requirement in section 1614(a)(3)(A) of the Act; that is, it must be expected to result in death, or must have lasted or be expected to last for a continuous period of not less than 12 months.

[5] For each major body system, the listings describe impairments we consider severe enough to cause ''marked and severe functional limitations.'' 20 CFR 416.925(a); 20 CFR part 404, subpart P, appendix 1.

[6] *See* SSR 09–1p, Title XVI: Determining Childhood Disability Under the Functional Equivalence Rule—The ''Whole Child'' Approach.

[7] However, some children have chronic physical or mental impairments that are characterized by episodes of exacerbation (worsening) and remission (improvement); therefore, their level of functioning may vary considerably over time. To properly evaluate the *severity* of a child's limitations in functioning, as described in the following paragraphs, we must consider any variations in the child's level of functioning to determine the impact of the chronic illness on the child's ability to function longitudinally; that is, over time. For more information about how we evaluate the severity of a child's limitations, *see* SSR 09–1p. For a comprehensive discussion of how we document a child's functioning, including evidentiary sources, *see* SSR 09–2p, Title XVI: Determining Childhood Disability—Documenting a Child's Impairment-Related Limitations.

[8] For the first five domains, we describe typical development and functioning using five age categories: Newborns and young infants (birth to attainment of age 1); older infants and toddlers (age 1 to attainment of age 3); preschool children (age 3 to attainment of age 6); school-age children (age 6 to attainment of age 12); and adolescents (age 12 to attainment of age 18). We do not use age categories in the sixth domain because that domain does not address typical development and functioning, as we explain in SSR 09–8p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Health and Physical Well-Being.''

[9] *See* 20 CFR 416.926a(e) for definitions of the terms ''marked'' and ''extreme.''

[10] A child may have limitations in the ability to do these self-care tasks because of impairment-related effects in other domains as well. For example, we evaluate the limitations of a child who has difficulty getting dressed because of an impairment that affects cognition in the domain of ''Acquiring and using information.'' *See* SSR 09–1p.

[11] We do not consider a child fully responsible for failing to follow prescribed treatment. Also, the policy of failure to follow prescribed treatment does not apply unless we first find that the child is disabled. Under this policy, we must also find that treatment was prescribed by the child's ''treating source'' (as defined in 20 CFR 416.902) and that it is clearly expected that, with the treatment, the child would no longer be disabled. Even then, we must consider whether there is a ''good reason'' for the failure to follow the prescribed treatment. For example, if the child's caregiver believes the side effects of treatment are unacceptable, or an adolescent refuses to take medication because of a mental disorder, we would find that there is a good reason for not following the prescribed treatment. However, if there is not a good reason and all the other requirements are met, a denial based on failure to follow prescribed treatment would be appropriate. *See* 20 CFR 416.930 and SSR 82–59, Titles II and XVI: Failure To Follow Prescribed Treatment.

addition, after experiencing any emotion, children must be able to return to a state of emotional equilibrium. The ability to experience, use, and express emotion is often referred to as *self-regulation*. Children should demonstrate an increased capacity to self-regulate as they develop.

Ordinary circumstances may cause emotions, such as fear, sadness, or frustration. Examples of age-appropriate, self-consoling activities to regulate such emotions include:

- For a newborn or young infant, sucking on a pacifier or thumb when upset.
- For a toddler, carrying a stuffed animal for a sense of security.
- For a preschool child, playing with a favorite toy when feeling lonely.
- For a school-age child, playing a computer game when bored.
- For an adolescent, listening to music when feeling stress.

However, children whose mental or physical impairments affect the ability to regulate their emotional well-being may respond in inappropriate ways. For example:

- A child with an anxiety disorder may use denial or escape rather than problem-solving skills to deal with a stressful situation.
- A child with attention-deficit/hyperactivity disorder who has difficulty completing assignments may express frustration by destroying school materials.
- A teenager with a depressive disorder may have adequate hygiene, but seek emotional comfort by engaging in self-injurious behaviors (for example, binge eating, substance abuse, or suicidal gestures).
- A child with a traumatic brain injury who has poor impulse control may have problems managing anger.
- A child with a musculoskeletal disorder who feels awkward and frustrated during recess time may refuse to leave the classroom.

Physical Wants and Needs

In addition to regulating emotional well-being, a child must be able to satisfy physical wants and needs every day. This requires children to have a basic understanding of their own bodies, including their bodies' normal functioning, and adequate emotional health for carrying out the tasks involved in self-care. The domain of ''Caring for yourself'' involves the emotional ability to engage in self-care activities, such as feeding, dressing, toileting, and maintaining hygiene and physical health.

Taking care of physical needs, however, also includes other aspects of self-care; for example:

- Recognizing when one feels ill,
- Seeking medical attention,
- Following safety rules,
- Asking for help when needed,
- Responding to circumstances in safe and appropriate ways, and
- Making decisions that do not endanger oneself.

The Difference Between the Domains of ''Caring for Yourself'' and ''Interacting and Relating With Others''

The domains of ''Caring for yourself'' and ''Interacting and relating with others'' are related, but different from each other. The domain of ''Caring for yourself'' involves a child's feelings and behavior in relation to *self* (as when controlling stress in an age-appropriate manner). The domain of ''Interacting and relating with others'' involves a child's feelings and behavior in relation to *other people* (as when the child is playing with other children, helping a grandparent, or listening carefully to a teacher).

A decision about which domain is appropriate for the evaluation of a specific limitation depends on the impact of the particular behavior. For example:

- If a girl with hyperactivity impulsively runs into the street, endangering herself, we evaluate this problem in self-care in the domain of ''Caring for yourself.'' On the other hand, if she interrupts conversations inappropriately, we evaluate this problem in social functioning in the domain of ''Interacting and relating with others.''
- If a language disorder limits a boy's ability to use ''self-talk'' to calm himself in a stressful situation, we evaluate this problem in self-regulation in the domain of ''Caring for yourself.'' But if he avoids other children during playtime because of the language disorder, we evaluate this problem in social functioning in the domain of ''Interacting and relating with others.''

Some impairments may cause limitations in *both* domains. For example, a boy with Oppositional Defiant Disorder who refuses to obey a parent's instruction not to run on a slippery surface endangers himself and disrespects the parent's authority. In this case, the child's mental disorder is causing limitations in the domains of ''Caring for yourself'' *and* ''Interacting and relating with others.'' Similarly, a teenage girl with depression who develops poor eating habits as a form of comfort, may also avoid friends and want to be left alone. We evaluate the limitations resulting from her depression in both the domains of ''Caring for yourself'' *and* ''Interacting and relating with others.'' Rating the limitations caused by a child's impairment(s) in each and every domain that is affected is *not* ''double-weighting'' of either the impairment(s) or its effects. Rather, it recognizes the particular effects of the child's impairment(s) in all domains involved in the child's limited activities.[12]

Effects in Other Domains

Children with limitations in the domain of ''Caring for yourself'' may also have limitations in other domains. For example, children with impairments that affect self-regulation may have difficulties in school, resulting in a limitation in the domain of ''Acquiring and using information'' in addition to the domain of ''Caring for yourself.'' Limitations in caring for self are also frequently found in connection with impairments whose most obvious effects are in other domains. For example, some children with learning disorders, which have effects in the domain of ''Acquiring and using information,'' also have difficulties with self-regulation.

Therefore, as in any case, we evaluate the effects of the child's impairment(s), including the effects of medication or other treatment and therapies, in all relevant domains.

Examples of Typical Functioning in the Domain of ''Caring for Yourself''

While there is a wide range of normal development, most children follow a typical course as they grow and mature. To assist adjudicators in evaluating impairment-related limitations in the domain of ''Caring for yourself,'' we provide the following examples of typical functioning drawn from our regulations, training, and case reviews. These examples are not all-inclusive, and adjudicators are not required to develop evidence about each of them. They are simply a frame of reference for determining whether children are functioning typically for their age with respect to maintaining a healthy emotional and physical state.

1. Newborns and Young Infants (Birth to Attainment of Age 1)

- Responds to body's signals (for example, hunger, discomfort, pain) by alerting caregiver to needs (for example, crying).
- Consoles self until help comes (for example, sucking on a hand).

[12] For more information about how we rate limitations, including their interactive and cumulative effects, *see* SSR 09–1p.

• Begins to expand capacity for self-regulation to include rhythmic behaviors (for example, rocking).
• Tries to do things for self, perhaps when still too young (for example, insisting on putting food in mouth, refusing caregiver's help).

2. Older Infants and Toddlers (Age 1 to Attainment of Age 3)

• Is increasingly able to console self (for example, carrying a favorite blanket).
• Cooperates with caregiver in dressing, bathing, and brushing teeth, but also shows what he can do (for example, pointing to the bathroom, pulling off coat).
• Insists on trying to feed self with spoon.
• Experiments with independence by a degree of contrariness (for example, ''No! No!'') and declaring own identity (for example, by hoarding toys).

3. Preschool Children (Age 3 to Attainment of Age 6)

• Tries to do things that he is not fully able to do (for example, climbing on chair to reach something up high).
• Agrees easily and early in this age range to do what caregiver wants, but gradually wants to do many things her own way or not at all.
• Develops more confidence in abilities (for example, wants to use toilet, feed self independently).
• Begins to understand how to control behaviors that are potentially dangerous (for example, crossing street without an adult).

4. School-Age Children (Age 6 to Attainment of Age 12)

• Recognizes circumstances that lead to feeling good and bad about himself.
• Begins to develop understanding of what is right and wrong, and what is acceptable and unacceptable behavior.
• Demonstrates consistent control over behavior and avoids behaviors that are unsafe.
• Begins to imitate more of the behavior of adults she knows.
• Performs most daily activities independently (for example, dressing, bathing), but may need to be reminded.

5. Adolescents (Age 12 to Attainment of Age 18)

• Discovers appropriate ways to express good and bad feelings (for example, keeps a diary, exercises).
• Feels more independent from others and becomes increasingly independent in all daily activities.
• Sometimes feels confused about how she feels about herself.
• Notices significant changes in his body's development, which can result in some anxiety or worry about self and body (may sometimes cause anger and frustration).
• Begins to think about future plans (for example, work).
• Maintains personal hygiene adequately (for example, bathing, brushing teeth, wearing clean clothing appropriate for weather and context).
• Takes medications as prescribed.

Examples of Limitations in the Domain of ''Caring for Yourself''

To further assist adjudicators in evaluating impairment-related limitations in the domain of ''Caring for yourself,'' we also provide the following examples of some of the limitations we consider in this domain. These examples are drawn from our regulations and training. They are not the only examples of limitations in this domain, nor do they necessarily describe a ''marked'' or an ''extreme'' limitation.

In addition, the examples below may or may not describe limitations depending on the expected level of functioning for a given child's age. For example, school-age children would be expected to bathe themselves, but toddlers would not; young children may place non-nutritive or inedible objects in their mouth, but older children typically would not.[13]

• Consoles self with activities that show developmental regression (for example, an older child who sucks his thumb).
• Has restrictive or stereotyped mannerisms (for example, head banging, body rocking).
• Does not spontaneously pursue enjoyable activities or interests (for example, listening to music, reading a book).
• Engages in self-injurious behavior (for example, refusal to take medication, self-mutilation, suicidal gestures) or ignores safety rules.
• Does not feed, dress, bathe, or toilet self appropriately for age.
• Has disturbance in eating or sleeping patterns.
• Places non-nutritive or inedible objects in mouth (for example, dirt, chalk).

DATES: *Effective date:* This SSR is effective on March 19, 2009.

Cross-References: SSR 09–1p, Title XVI: Determining Childhood Disability Under the Functional Equivalence Rule—The ''Whole Child'' Approach; SSR 09–2p, Title XVI: Determining Childhood Disability—Documenting a Child's Impairment-Related Limitations; SSR 09–3p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Acquiring and Using Information''; SSR 09–4p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Attending and Completing Tasks''; SSR 09–5p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Interacting and Relating with Others''; SSR 09–6p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Moving and Manipulating Objects''; SSR 09–8p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Health and Physical Well-Being''; SSR 82–59, Titles II and XVI: Failure To Follow Prescribed Treatment; and Program Operations Manual System (POMS) DI 25225.030, DI 25225.035, DI 25225.040, DI 25225.045, DI 25225.050, DI 25225.055, DI 23010.001–23010.010, and DI 23010.020.

[13] *See* 20 CFR 416.924b.

[FR Doc. E9–3384 Filed 2–13–09; 8:45 am]
BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2008–0062]

Social Security Ruling, SSR 09–8p. Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Health and Physical Well-Being''

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling (SSR).

SUMMARY: We are giving notice of SSR 09–8p. This SSR consolidates information from our regulations, training materials, and question-and-answer documents about the functional equivalence domain of ''Health and physical well-being.'' It also explains our policy about that domain.

DATES: *Effective Date:* March 19, 2009.

FOR FURTHER INFORMATION CONTACT: Janet Truhe, Office of Disability Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–1020.

SUPPLEMENTARY INFORMATION: Although 5 U.S.C. 552(a)(1) and (a)(2) do not require us to publish this SSR, we are doing so under 20 CFR 402.35(b)(1).

SSRs make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, special veterans benefits, and black lung programs. SSRs may be based on determinations or decisions made at all levels of administrative adjudication,

Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, or policy interpretations of the law and regulations.

Although SSRs do not have the same force and effect as statutes or regulations, they are binding on all components of the Social Security Administration. 20 CFR 402.35(b)(1).

This SSR will be in effect until we publish a notice in the **Federal Register** that rescinds it, or publish a new SSR that replaces or modifies it.

(Catalog of Federal Domestic Assistance, Program No. 96.006 Supplemental Security Income.)

Dated: February 9, 2009.

Michael J. Astrue,

Commissioner of Social Security.

Policy Interpretation Ruling

Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Health and Physical Well-Being''

Purpose: This SSR consolidates information from our regulations, training materials, and question-and-answer documents about the functional equivalence domain of ''Health and physical well-being.'' It also explains our policy about that domain.

Citations: Sections 1614(a)(3), 1614(a)(4), and 1614(c) of the Social Security Act, as amended; Regulations No. 4, subpart P, appendix 1; and Regulations No. 16, subpart I, sections 416.902, 416.906, 416.909, 416.923, 416.924, 416.924a, 416.924b, 416.925, 416.926, 416.926a, and 416.994a.

Introduction: A child [1] who applies for Supplemental Security Income (SSI) [2] is ''disabled'' if the child is not engaged in substantial gainful activity and has a medically determinable physical or mental impairment or combination of impairments [3] that results in ''marked and severe functional limitations.'' [4] 20 CFR 416.906. This means that the impairment(s) must *meet* or *medically equal* a listing in the Listing of Impairments (the listings) [5] or *functionally equal* the listings (also referred to as ''functional equivalence''). 20 CFR 416.924 and 416.926a.

As we explain in greater detail in SSR 09–1p, we always evaluate the ''whole child'' when we make a finding regarding functional equivalence, unless we can otherwise make a fully favorable determination or decision.[6] We focus first on the child's activities, and evaluate how appropriately, effectively, and independently the child functions compared to children of the same age who do not have impairments. 20 CFR 416.926a(b) and (c). We consider what activities the child cannot do, has difficulty doing, needs help doing, or is restricted from doing because of the impairment(s). 20 CFR 416.926a(a). Activities are everything a child does at home, at school, and in the community, 24 hours a day, 7 days a week.[7]

We next evaluate the effects of a child's impairment(s) by rating the degree to which the impairment(s) limits functioning in six ''domains.'' Domains are broad areas of functioning intended to capture all of what a child can or cannot do. We use the following six domains:

(1) Acquiring and using information,
(2) Attending and completing tasks,
(3) Interacting and relating with others,
(4) Moving about and manipulating objects,
(5) Caring for yourself, and
(6) Health and physical well-being.

20 CFR 416.926a(b)(1).[8]

To functionally equal the listings, an impairment(s) must be of listing-level severity; that is, it must result in ''marked'' limitations in two domains of functioning or an ''extreme'' limitation in one domain.[9] 20 CFR 416.926a(a).

Policy Interpretation:

General

In the domain of ''Health and physical well-being,'' we consider the cumulative physical effects of physical and mental impairments and their associated treatments on a child's health and functioning. Unlike the other five domains of functional equivalence (which address a child's abilities), this domain does not address typical development and functioning.[10] Rather, the ''Health and physical well-being'' domain addresses how such things as recurrent illness, the side effects of medication, and the need for ongoing treatment affect a child's body; that is, the child's health and sense of physical well-being.[11]

Some physical effects that we consider in this domain can result *directly from a physical or mental impairment(s).* For example:

- Feeling weak, dizzy, agitated, short of breath, fatigued, low in energy, short on stamina, or ''slowed down'' (as with psychomotor retardation),[12] or having local or generalized pain; and

[1] The definition of disability in section 1614(a)(3)(C) of the Social Security Act (the Act) applies to any ''individual'' who has not attained age 18. In this SSR, we use the word ''child'' to refer to any such person, regardless of whether the person is considered a ''child'' for purposes of the SSI program under section 1614(c) of the Act.

[2] For simplicity, we refer in this SSR only to initial claims for benefits. However, the policy interpretations in this SSR also apply to continuing disability reviews of children under section 1614(a)(4) of the Act and 20 CFR 416.994a.

[3] We use the term ''impairment(s)'' in this SSR to refer to an ''impairment or a combination of impairments.''

[4] The impairment(s) must also satisfy the duration requirement in section 1614(a)(3)(A) of the Act; that is, it must be expected to result in death, or must have lasted or be expected to last for a continuous period of not less than 12 months.

[5] For each major body system, the listings describe impairments we consider severe enough to cause ''marked and severe functional limitations.'' 20 CFR 416.925(a); 20 CFR part 404, subpart P, appendix 1.

[6] *See* SSR 09–1p, Title XVI: Determining Childhood Disability Under the Functional Equivalence Rule—The ''Whole Child'' Approach.

[7] However, some children have chronic physical or mental impairments that are characterized by episodes of exacerbation (worsening) and remission (improvement); therefore, their level of functioning may vary considerably over time. To properly evaluate the *severity* of a child's limitations in functioning, as described in the following paragraphs, we must consider any variations in the child's level of functioning to determine the impact of the chronic illness on the child's ability to function longitudinally; that is, over time. For more information about how we evaluate the severity of a child's limitations, *see* SSR 09–1p. For a comprehensive discussion of how we document a child's functioning, including evidentiary sources, *see* SSR 09–2p, Title XVI: Determining Childhood Disability—Documenting a Child's Impairment-Related Limitations.

[8] For the first five domains, we describe typical development and functioning using five age categories: Newborns and young infants (birth to attainment of age 1); older infants and toddlers (age 1 to attainment of age 3); preschool children (age 3 to attainment of age 6); school-age children (age 6 to attainment of age 12); and adolescents (age 12 to attainment of age 18). We do not use age categories in the sixth domain because, as we explain in this SSR, that domain does not address typical development and functioning.

[9] *See* 20 CFR 416.926a(e) for definitions of the terms ''marked'' and ''extreme.''

[10] For more information about the other five domains of functional equivalence, *see* the cross-references at the end of this SSR.

[11] In 20 CFR 416.924a(b)(8) and (b)(9), we provide that ''the impact of chronic illness'' and ''effects of treatment'' are ''factors'' we consider when evaluating a child's functioning. The difference between these ''factors'' and the domain of ''Health and physical well-being'' is that the factors address any kind of effect (physical *or* mental) that a child's impairment(s) has on functioning, and we consider those effects at every step in the sequential evaluation process. However, we consider the domain only when determining whether a child's impairment(s) ''functionally equals the listings,'' and the domain addresses only the physical effects of a child's physical or mental impairment(s) (including associated treatment) on a child's overall health.

[12] Most pediatricians and developmental specialists use the term ''psychomotor retardation'' to describe children with some combination of cognitive, communicative, and motor limitations. However, psychiatrists and psychologists use the term in a more restricted sense, to mean the motor effects of psychiatric disorders, such as the slow or limited movement that may be seen in a seriously depressed individual. In our regulation describing this domain (20 CFR 416.926a(l)) and in our mental disorders listings, the term has the same meaning

Continued

• Allergic reactions, recurrent infections, poor growth, bladder or bowel incontinence, changes in weight or eating habits, stomach discomfort, nausea, seizures or convulsive activity, headaches, or insomnia.

These and other physical effects can also be *the consequence of treatment* a child receives. For example:

• *Medications* for physical or mental disorders can cause generalized symptoms, such as fatigue, dizziness, or drowsiness, or more specific problems, such as nausea or weight loss. Certain medications used to treat mental disorders can have indirect physical effects. For example, some medications used to treat attention-deficit/hyperactivity disorder may cause a change in eating habits which may, in turn, limit growth.

• *Therapy* (for example, chemotherapy, multiple surgeries or procedures, chelation, pulmonary cleansing, or nebulizer treatments) can have physical effects, including generalized symptoms, such as weakness, or more specific problems, such as nausea. In addition, periods of therapy can be frequent or time-consuming, require recovery time, or reduce a child's endurance.

There are other considerations in this domain. For example:

• A child who otherwise appears to be functioning appropriately may be doing so because of intensive medical or other care needed to maintain health and physical well-being. We evaluate such medical fragility in this domain.

• Some disorders (for example, cystic fibrosis and asthma) are episodic, with periods of worsening (exacerbation) and improvement (remission). When symptoms and signs fluctuate, we consider the frequency and duration of exacerbations, as well as the extent to which they affect a child's ability to function physically.[13]

In all cases, it is important to remember that the cumulative physical effects of a child's physical or mental impairment(s) can vary in kind and intensity, and can affect each child differently.

As with limitations in any domain, we do not consider a limitation in the domain of ''Health and physical well-being'' unless it results from a medically determinable impairment(s). However, it is unlikely that a child who has a *significant* problem in this domain does not have an impairment(s) that causes the problem. Therefore, if a child has a significant problem in this domain, and there is no evidence of a medically determinable impairment(s) that could be the cause of the limitations, adjudicators should ensure that they have made all necessary attempts to obtain evidence of an impairment(s) and explain any finding that there is no medically determinable impairment(s) to account for the limitations in the determination or decision.

The Difference Between the Domains of ''Health and Physical Well-Being'' and ''Moving About and Manipulating Objects''

In the domain of ''Health and physical well-being,'' we consider the cumulative physical effects of physical and mental impairments and their associated treatments or therapies not addressed in the domain of ''Moving about and manipulating objects.'' We evaluate the problems of children who are physically ill or who manifest physical effects of mental disorders (except for effects on motor functioning). Physical effects, such as pain, weakness, dizziness, nausea, reduced stamina, or recurrent infections, may result from the impairment(s) itself, medication or other treatment, or chronic illness. These effects can determine whether a child feels well enough and has sufficient energy to engage in age-appropriate activities, either alone or with other children.

In the domain of ''Moving about and manipulating objects,'' we consider how well children can move their own bodies and handle things. We evaluate limitations of fine and gross motor movements caused by musculoskeletal and neurological impairments, by other impairments (including mental disorders) that may result in motor limitations, and by medications or other treatments that cause such limitations.[14]

In fact, an impairment(s) may have effects in *both* domains when it affects the child's general physical state *and* fine or gross motor functioning. For example, some medications used to treat impairments that affect motor functioning may have physical effects (such as nausea, headaches, allergic reactions, or insomnia) that sap a child's energy or make the child feel ill. We evaluate these generalized, cumulative effects on the child's overall physical functioning in the domain of ''Health and physical well-being.'' We evaluate any limitations in fine or gross motor functioning in the domain of ''Moving about and manipulating objects.''

Effects in Other Domains

Impairments that affect health and physical well-being can have effects in other domains as well. For example, a child who must frequently miss school because of illness (including the need to go for treatment) may have social limitations that we also evaluate in the domain of ''Interacting and relating with others,'' behavioral manifestations that we evaluate in the domain of ''Caring for yourself,'' or both. In some cases, chronic absence from school may result in limitations we also evaluate in the domain of ''Acquiring and using information.''

Additionally, generalized or localized pain that results from an impairment(s) may interfere with a child's ability to concentrate, an effect that we evaluate in the domain of ''Attending and completing tasks'' and often in the domain of ''Acquiring and using information.'' Pain may also cause a child to be less active socially, an effect that we evaluate in the domain of ''Interacting and relating with others.'' Some medications for physical impairments may affect mental functioning, interfering with a child's ability to pay attention, remember, or follow directions. We consider these effects in the domain of ''Acquiring and using information,'' ''Attending and completing tasks,'' or both depending upon the type of limitation that results. Other medications for physical impairments may cause restlessness, agitation, or anxiety that may affect a child's social functioning (which we evaluate in the domain of ''Interacting and relating with others'') or emotional well-being (which we evaluate in the domain of ''Caring for yourself'').[15]

Therefore, as in any case, we evaluate the effects of a child's impairment(s), including the effects of medication or other treatment and therapies, in all relevant domains. Rating the limitations caused by a child's impairment(s) in each and every domain that is affected is *not* ''double-weighting'' of either the impairment(s) or its effects. Rather, it

as it does for psychiatrists and psychologists. Because different specialists use the term differently, it is important to read carefully any evidence that uses this term in order to determine how it is being used.

[13] We generally do not consider brief episodes of illness (for example, ear infections) in this domain because they would not meet the duration requirement. However, there are certain impairments, such as immune deficiency diseases, that increase a child's susceptibility to infection or other disorders. In the domain of ''Health and physical well-being,'' we consider such episodes of illness when they are associated with the child's underlying impairment.

[14] For more information about the domain of ''Moving about and manipulating objects,'' *see* SSR 09–6p, Title XVI: Determining Childhood Disability: The Functional Equivalence Domain of ''Moving About and Manipulating Objects.''

[15] Further, a child may also have social difficulties because of a device used for treatment or assistance in functioning, such as the need to use a breathing device or other adaptive equipment, that results in social stigma.

recognizes the particular effects of the child's impairment(s) in all domains involved in the child's limited activities.[16]

Examples of Limitations in the Domain of ''Health and Physical Well-Being''

To assist adjudicators in evaluating a child's impairment-related limitations in the domain of ''Health and physical well-being,'' we provide the following examples of limitations that are drawn from our regulations, training, and case reviews. They are not the only limitations in this domain, nor do they necessarily describe a ''marked'' or an ''extreme'' limitation.[17]

In addition, as in the examples of limitations for the other five domains, we consider a child's age[18] in determining whether there is a limitation in functioning in the domain of ''Health and physical well-being.'' 20 CFR 416.926a(1)(4). While it is less likely that age will be a factor in determining whether there is a limitation in this domain, it is still possible, and we must consider the expected level of functioning for a given child's age in determining the severity of a limitation.

- Has generalized symptoms caused by an impairment(s) (for example, tiredness due to depression).
- Has somatic complaints related to an impairment(s) (for example, epilepsy).
- Has chronic medication side effects (for example, dizziness).
- Needs frequent treatment or therapy (for example, multiplesurgeries or chemotherapy).
- Experiences periodic exacerbations (for example, pain crises in sickle cell anemia).
- Needs intensive medical care as a result of being medically fragile.

DATES: *Effective date:* This SSR is effective on March 19, 2009.

Cross-References: SSR 09–1p, Title XVI: Determining Childhood Disability Under the Functional Equivalence Rule—The ''Whole Child'' Approach; SSR 09–2p, Title: Determining Childhood Disability—Documenting a Child's Impairment-Related Limitations; SSR 09–3p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Acquiring and Using Information''; SSR 09–4p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Attending and Completing Tasks''; SSR 09–5p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Interacting and Relating with Others''; SSR 09–6p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Moving About and Manipulating Objects''; SSR 09–7p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Caring for Yourself''; and Program Operations Manual System (POMS) DI 25225.030, DI 25225.035, DI 25225.040, DI 25225.045, DI 25225.050, and DI 25225.055.

[FR Doc. E9–3385 Filed 2–13–09; 8:45 am]

BILLING CODE 4191–02–P

[16] For more information about how we rate limitations, including their interactive and cumulative effects, *see* SSR 09–1p.

[17] There are some rules for determining whether there is a ''marked'' or an ''extreme'' limitation in the ''Health and physical well-being'' domain that are unique to this domain. *See* 20 CFR 416.926a(e)(2)(iv) and 416.926a(e)(3)(iv).

[18] *See* 20 CFR 416.924b.

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2008–0062; Social Security Ruling, SSR 09–1p.]

Title XVI: Determining Childhood Disability Under the Functional Equivalence Rule—The ''Whole Child'' Approach

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling (SSR).

SUMMARY: We are giving notice of SSR 09–1p. This SSR provides policy interpretations and consolidates information from our regulations, training materials, and question-and-answer documents about our ''whole child'' approach for determining whether a child's impairment(s) functionally equals the listings.

DATES: *Effective Date:* March 19, 2009.

FOR FURTHER INFORMATION CONTACT: Janet Bendann, Office of Disability Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–9118.

SUPPLEMENTARY INFORMATION: Although 5 U.S.C. 552(a)(1) and (a)(2) do not require us to publish this SSR, we are doing so under 20 CFR 402.35(b)(1).

SSRs make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, special veterans benefits, and black lung benefits programs. SSRs may be based on determinations or decisions made at all levels of administrative adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, or other interpretations of the law and regulations.

Although SSRs do not have the same force and effect as statutes or regulations, they are binding on all components of the Social Security Administration.

This SSR will be in effect until we publish a notice in the **Federal Register** that rescinds it, or publish a new SSR that replaces or modifies it.

(Catalog of Federal Domestic Assistance, Program No. 96.006 Supplemental Security Income.)

Dated:
February 9, 2009.

Michael J. Astrue,

Commissioner of Social Security.

Policy Interpretation Ruling

Title XVI: Determining Childhood Disability Under the Functional Equivalence Rule—The ''Whole Child'' Approach

Purpose: This SSR provides policy interpretations and consolidates information from our regulations, training materials, and question-and-answer documents about our ''whole child'' approach for determining whether a child's impairment(s) functionally equals the listings.

Citations: Sections 1614(a)(3), 1614(a)(4), and 1614(c) of the Social Security Act, as amended; Regulations No. 4, subpart P, appendix 1; and Regulations No. 16, subpart I, sections 416.902, 416.906, 416.909, 416.923, 416.924, 416.924a, 416.924b, 416.925, 416.926, 416.926a, and 416.994a.

Introduction: A child[1] who applies for Supplemental Security Income (SSI)[2] is ''disabled'' if the child is not engaged in substantial gainful activity and has a medically determinable physical or mental impairment or combination of impairments[3] that results in ''marked and severe functional limitations.''[4] 20 CFR 416.906. This means that the impairment(s) must *meet* or *medically equal* a listing in the Listing of

[1] The definition of disability in section 1614(a)(3)(C) of the Social Security Act (the Act) applies to any ''individual'' who has not attained age 18. In this SSR, we use the word ''child'' to refer to any such person, regardless of whether the person is considered a ''child'' for purposes of the SSI program under section 1614(c) of the Act.

[2] For simplicity we refer in this SSR only to initial claims for benefits. However, the policy interpretations in this SSR also apply to continuing disability reviews of children under section 1614(a)(4) of the Act and 20 CFR 416.994a.

[3] We use the term ''impairment(s)'' in this SSR to refer to an ''impairment or a combination of impairments.''

[4] The impairment(s) must also satisfy the duration requirement in section 1641(a)(3)(A) of the Act; that is, it must be expected to result in death, or must have lasted or be expected to last for a continuous period of not less than 12 months.

Impairments (the listings),[5] or *functionally equal* the listings (also referred to as ''functional equivalence''). 20 CFR 416.924 and 416.926a.

To functionally equal the listings, an impairment(s) must be of listing-level severity; that is, it must result in ''marked'' limitations in two domains of functioning or an ''extreme'' limitation in one domain.[6] 20 CFR 416.926a(a). *Domains* are broad areas of functioning intended to capture all of what a child can or cannot do. We use the following six domains:

(1) Acquiring and using information,
(2) Attending and completing tasks,
(3) Interacting and relating with others,
(4) Moving about and manipulating objects,
(5) Caring for yourself, and
(6) Health and physical well-being.

20 CFR 416.926a(b)(1).[7]

Our rules provide that we start our evaluation of functional equivalence by considering the child's functioning without considering the domains or individual impairments. They provide that ''[w]hen we evaluate your functioning and decide which domains may be affected by your impairment(s), we will look first at your activities and limitations and restrictions.''[8] 20 CFR 416.926a(c) (emphasis added). Our rules also provide that we:

> look at the information we have in your case record about how your functioning is affected *during all of your activities* when we decide whether your impairment or combination of impairments functionally equals the listings. Your activities are *everything you do at home, at school, and in your community.*

20 CFR 416.926a(b) (emphasis added).

After we identify which of a child's activities are limited, we determine which domains are involved in those activities. We then determine whether the child's impairment(s) could affect those domains and account for the limitations. This is because:

> [a]ny given activity may involve the integrated use of many abilities and skills; therefore, any single limitation may be the result of the interactive and cumulative effects of one or more impairments. And any given impairment may have effects in more than one domain; therefore, we will evaluate the limitations from your impairment(s) in any affected domain(s).

20 CFR 416.926a(c). We then rate the severity of the limitations in each affected domain.

This technique for determining functional equivalence accounts for all of the effects of a child's impairments singly and in combination—the interactive and cumulative effects of the impairments—because it starts with a consideration of actual functioning in all settings. We have long called this technique our ''whole child'' approach.

Policy Interpretation

I. General

We always evaluate the ''whole child'' when we make a finding regarding functional equivalence, unless we can make a fully favorable determination or decision without having to do so. The functional equivalence rules require us to begin by considering how the child functions every day and in all settings compared to other children the same age who do not have impairments. After we determine how the child functions in all settings, we use the domains to create a picture of how, and the extent to which, the child is limited by identifying the abilities that are used to do each activity, and assigning each activity to any and all of the domains involved in doing it. We then determine whether the child's medically determinable impairment(s) accounts for the limitations we have identified. Finally, we rate the overall severity of limitation in each domain to determine whether the child is ''disabled'' as defined in the Act.

More specifically, we consider the following questions.

1. *How does the child function?* ''Functioning'' refers to a child's activities; that is, everything a child does throughout the day at home, at school, and in the community, such as getting dressed for school, cooperating with caregivers, playing with friends, and doing class assignments. We consider:

- What activities the child is *able* to perform,
- What activities the child is *not able* to perform,
- Which of the child's activities are *limited or restricted,*
- Where the child has difficulty with activities—at home, in childcare, at school, or in the community,
- Whether the child has difficulty independently initiating, sustaining, or completing activities,
- The kind of help, and how much help the child needs to do activities, and how often the child needs it, and
- Whether the child needs a structured or supportive setting, what type of structure or support the child needs, and how often the child needs it.

20 CFR 416.926a(b)(2).

2. *Which domains are involved in performing the activities?* We assign each activity to any and all of the domains involved in performing it. Many activities require more than one of the abilities described by the first five domains and may also be affected by problems that we evaluate in the sixth domain.

3. *Could the child's medically determinable impairment(s) account for limitations in the child's activities?* If it could, and there is no evidence to the contrary, we conclude that the impairment(s) causes the activity limitations we have identified in each domain.

4. *To what degree does the impairment(s) limit the child's ability to function age-appropriately in each domain?* We consider how well the child can initiate, sustain, and complete activities, including the kind, extent, and frequency of help or adaptations the child needs, the effects of structured or supportive settings on the child's functioning, where the child has difficulties (at home, at school, and in the community), and all other factors that are relevant to the determination of the degree of limitation. 20 CFR 416.924a.

This technique of looking first at the child's actual functioning in all activities and settings and considering all domains that are involved in doing those activities, accounts for the interactive and cumulative effects of the child's impairment(s), including any impairments that are not ''severe.'' This is because limitations in a child's activities will generally be the manifestation of any difficulties that result from the impairments both individually and in combination.[9]

[5] For each major body system, the listings describe impairments we consider severe enough to cause ''marked and severe functional limitations.'' 20 CFR 416.925(a); 20 CFR part 404, subpart P, appendix 1.

[6] *See* 20 CFR 416.926a(e) for definitions of the terms ''marked'' and ''extreme.''

[7] For the first five domains, we describe typical development and functioning using five age categories: Newborns and young infants (birth to attainment of age 1); older infants and toddlers (age 1 to attainment of age 3); preschool children (age 3 to attainment of age 6); school-age children (age 6 to attainment of age 12); and adolescents (age 12 to attainment of age 18). We do not use age categories in the sixth domain because that domain does not address typical development and functioning, as we explain in SSR 09–8p title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Health and Physical Well-Being.''

[8] In the preamble to the final childhood disability regulations we published in 2000, we noted that this approach assumes that at this step in the sequential evaluation process for children we have already established the existence of at least one medically determinable impairment that is ''severe.'' Therefore, * * * we are looking primarily at the extent of the limitation of the child's functioning. We look at all of the child's activities to determine the child's limitations or restrictions and then decide which domains to use. 65 FR 54747, 54757 (2000).

[9] As noted in question no. 3 above, we would not make this assumption if there is evidence indicating that a child's limitations are not attributable to a

In sections II, III, and IV, we provide more detail about the technique for determining functional equivalence. However, we do not require our adjudicators to discuss all of the considerations in the sections below in their determinations and decisions, only to provide sufficient detail so that any subsequent reviewers can understand how they made their findings.

II. Determining Which Domains Are Involved in Doing Activities

A. General

The ''whole child'' approach recognizes that many activities require the use of more than one of the abilities described in the first five domains, and that they may also be affected by a problem that we consider in the sixth domain. A single impairment, as well as a combination of impairments, may result in limitations that require evaluation in more than one domain.[10] Conversely, a combination of impairments, as well as a single impairment, may result in limitations that we rate in only one domain.

Therefore, it is incorrect to assume that the effects of a particular medical impairment must be rated in only one domain or that a combination of impairments must always be rated in several. Rather, adjudicators must consider the particular effects of a child's impairment(s) on the child's activities in any and all of the domains that the child uses to do those activities, based on the evidence in the case record.[11]

In the sections that follow, we provide examples to illustrate how we apply these principles. These examples do not indicate whether a child is disabled, only how we assign limitations in a child's activities to a domain or domains. The rating of severity—determining whether the child is disabled—comes later. *See* sections III and IV below.

B. Examples of Activities That Typically Require Two or More Abilities

1. *Tying shoes.* Tying shoes typically requires abilities in at least four domains:

- Learning and remembering the sequence for tying (Acquiring and using information),
- Focusing on the task (Attending and completing tasks),
- Using the fingers and hands to do the task (Moving about and manipulating objects), and
- Taking responsibility for dressing and appearance (Caring for yourself).

Therefore, depending on the nature and effects of the impairment(s), a child who has difficulty tying his shoes may have limitations in one, two, three, or even all of these domains. For example, if a child has a deformity of the hands and fingers that affects only manipulation, the only domain that might be affected is ''Moving about and manipulating objects.'' However, if the child has pain or other symptoms, there might also be a problem in concentration, which we would also evaluate in the domain of ''Attending and completing tasks.'' There might also be limitations in other domains.[12]

2. *Riding a public bus.* Taking a public bus independently typically requires the abilities in the first five domains:

- Knowing how, where, and when to catch the bus, which bus to ride, the amount of the fare and how to pay it, and how and where to get off, as well as properly accomplishing these tasks (Acquiring and using information, Attending and completing tasks).
- Relating appropriately to the driver and other passengers (Interacting and relating with others),
- Being physically able to get on and off the bus (Moving about and manipulating objects), and
- Following safety rules (Caring for yourself).

Again, depending on the nature and particular effects of the impairment(s), a child who has difficulty riding a public bus may have limitations in any one, two, several, or even all of these domains.

C. Example of a Child With a Single Impairment That Is Rated in More Than One Domain

A boy in elementary school with attention-deficit/hyperactivity disorder (AD/HD) has trouble with all of the following activities.

1. *Reading class assignments.* The child repeatedly misreads words by impulsively guessing what they are based on the first letters or the shapes of the words, and he is not keeping up with the rest of his class. His ability to learn and think about information in school is at least partly dependent on how well he can read. These difficulties indicate a limitation in the domain of ''Acquiring and using information.''

2. *Following classroom instructions.* The child generally carries out only the first part of three-part instructions. Being unable to sustain focus, he quickly goes on to unrelated activities. He also makes mistakes in carrying out the instructions on which he does try to focus. He needs controlled, directed attention to carry out instructions correctly. These difficulties indicate a limitation in the domain of ''Attending and completing tasks.''

3. *Playing with others.* The child will typically approach a group of children, interrupt whoever is talking, and begin telling his own story, leading to conflicts with the other children. To successfully interact and relate with peers, the child must understand the social situation and use appropriate behaviors to approach other children. These difficulties indicate a limitation in the domain of ''Interacting and relating with others.''

4. *Avoiding danger.* The child often impulsively dashes out into the street without looking for cars and considering his safety. Being responsible for his own safety requires the child to stop moving and to be cautious before stepping into the street. These difficulties in self-related activities indicate a limitation in the domain of ''Caring for yourself.''

Therefore, even though attentional difficulties and hyperactivity are hallmarks of AD/HD, in this case it would be incorrect to assume that this child's AD/HD causes limitations only in the domain of ''Attending and completing tasks.'' This child's activities demonstrate that his single impairment causes limitations that we must rate in four domains.

D. Example of a Child With a Combination of Impairments That Is Rated in Only One Domain

A girl in middle school has a mild hearing disorder that affects both her hearing and speech. She also has a repaired complete cleft lip and palate that affects her speech as well as her appearance. She has difficulty hearing other children, especially on the playground during games, and they have difficulty understanding what she

medically determinable impairment(s). However, in most cases, limitations that are of listing-level severity will be associated with underlying physical or mental impairments.

[10] Rating the limitations caused by a child's impairment(s) in each and every domain that is affected is *not* ''double-weighting'' of either the impairment(s) or its effects. Rather, it recognizes the particular effects of the child's impairment(s) in all domains involved in the child's limited activities.

[11] By the time we reach the functional equivalence step, we will have already determined that the child has at least one medically determinable impairment that is ''severe''; that is, it that causes more than minimal functional limitations. 20 CFR 416.924. Therefore, the child must have a limitation in at least one domain.

[12] Children who have mental disorders will often have limitations that are rated in more than one domain, but as we explain in the domain-specific SSRs referenced at the end of this SSR, physical impairments can also have effects that must be assigned to more than one domain.

says. The other children do not approach her, and they also make fun of her because of her appearance and speech difficulties. Consequently, she has difficulty forming friendships with her classmates. She tends to stay to herself during recess and lunchtime and plays alone when at home.[13]

However, she does not have any difficulty learning. She completes all her schoolwork and chores on time, appropriately, and without unusual assistance, is well-behaved and otherwise cares for herself age-appropriately. She also has no motor difficulties.

In this example, the evidence shows that the child has only social limitations at school and in her neighborhood, and that the limitations in her activities are the result of her difficulty communicating effectively with other children because of her hearing and speech problems and appearance. Therefore, the combination of this child's two impairments causes limitations only in the domain of ''Interacting and relating with others.''

It is unnecessary to evaluate the effects of each of the child's impairments separately and then to determine their combined effects. Since we start by evaluating her functioning (in this case, her social limitations), the limitations in interacting and relating with others established by the evidence in the case record reflect the combined effects of her impairments.

E. Example of a Child With a Combination of Impairments That Is Rated in More Than One Domain

An adolescent has a diagnosis of borderline intellectual functioning (BIF) and has been a ''slow learner'' throughout school. She also has recently been diagnosed with depression. She has received special education services throughout her school years and is now in the 11th grade. She has attended special classes for all of her academic subjects, but has been mainstreamed for some elective courses and extracurricular activities. Her teacher reports that she performed satisfactorily in most of her classes in previous years, but for the past two semesters has become inattentive in class, has failed three academic subjects because of inattention and failure to complete her assignments, and has frequently refused to go to school. Her mother reports that at home the child cries a lot, sleeps as long as 12 hours every night, eats irregularly, complains of headaches, and is irritable, uncooperative, and angry more often than not. Despite many attempts, the parent has been unable to engage her daughter in talking about what is wrong and how she might help.

The student's difficulty with activities at school and at home involves three, and possibly four, domains:

1. Her many years of placement in special education classes for all academic work indicate a limitation that we would rate in the domain of ''Acquiring and using information.''

2. Her inattention in class and current failure in three academic subjects as a consequence indicate that there is also a limitation in the domain of ''Attending and completing tasks.''

3. Her mother's description of some of the child's difficulties at home (for example, crying, oversleeping, physical complaints, and irritability) and the child's avoidance of dealing with them indicate a limitation in the domain of ''Caring for yourself.''

4. In addition, if her refusal to talk with her mother and her anger and uncooperativeness exceed what would be expected of adolescents of the same age who do not have any impairments, this would indicate a limitation in the domain of ''Interacting and relating with others.''

III. Rating Severity

A. General

Once we have determined which of a child's activities are limited, which domain or domains are involved, and that the limitations are the result of a medically determinable impairment(s), we rate the severity of the limitations and determine whether the impairment(s) functionally equals the listings. We consider all relevant evidence in the case record, including objective medical and other evidence, and all of the relevant factors discussed in 20 CFR 416.924a.[14]

It is important to determine the extent to which an impairment(s) compromises a child's ability to independently initiate, sustain, and complete activities. To do so, we consider the kinds of help or support the child needs in order to function. *See* 20 CFR 416.924a(b). In general, if a child needs a person, medication, treatment, device, or structured, supportive setting to make his functioning possible or to improve the functioning, the child will not be as independent as same-age peers who do not have impairments. Such a child will have a limitation, even if he is functioning well with the help or support.

The more help or support of any kind that a child receives beyond what would be expected for children the same age without impairments, the less independent the child is in functioning, and the more severe we will find the limitation to be. For example:

- A 10-year-old child who is dressed appropriately may appear not to be limited in this activity. However, if the evidence in the case record shows that the child needs significant help from her parents with the basics of dressing every day (for example, putting on and buttoning shirts), the child will have a limitation of that activity.[15]
- A 14-year-old child who has a serious emotional disturbance may be given ''wrap-around services'' that include the services of an adult who supervises the child at school. With these services, the child attends school, participates in activities with other children, and does not take any actions that endanger himself or others. However, the degree of ''extra help'' [16] the child needs to function demonstrates a limitation in at least the domains of ''Interacting and relating with others'' and ''Caring for yourself.''

B. Rating the Severity of Limitations in the Domains

When we determine the degree to which the child's impairment(s) limits each affected domain, we use the definitions of ''marked'' or ''extreme'' in our regulations. *See* 20 CFR 416.926a(e). The following discussion provides further guidance about how to apply those definitions.

To determine whether there is a ''marked'' or an ''extreme'' limitation in a domain, we use a picture constructed of the child's functioning in each domain. This last step in the ''whole child'' approach summarizes everything we know about a child's limited activities. The rating of limitation in a domain is then based on the answers to these questions:

[13] Even though this child's underlying ability to socialize may not be affected, there is a limitation in her ability to interact and relate with other children because of indirect effects of her impairments that limit her opportunity to use the ability.

[14] As provided in 20 CFR 416.924a(b), we consider these factors whenever we evaluate functioning at any step of the sequential evaluation process for children. We also use these factors to determine *whether* a child has a limitation, not just the severity of the limitations.

[15] The domain or domains in which we would rate the limitation would depend on the reason(s) that the child needs the help. For example, the child may have motor difficulties (Moving about and manipulating objects), difficulties learning or remembering how to dress appropriately (Acquiring and using information), difficulties with attention or impulsivity (Attending and completing tasks), or a combination of some or all of these problems. There may be limitations we would evaluate in other domains as well.

[16] *See* 20 CFR 416.924a(b)(5).

1. How many of the child's activities in the domain are limited (for example, one, few, several, many, or all)?

2. How important are the limited activities to the child's age-appropriate functioning (for example, basic, marginally important, or essential)?

3. How frequently do the activities occur and how frequently are they limited (for example, daily, once a week, or only occasionally)?

4. Where do the limitations occur (for example, only at home or in all settings)?

5. What factors are involved in the limited activities (for example, does the child receive support from a person, medication, treatment, device, or structured/supportive setting)?

There is no set formula for applying these considerations in each case. A child's day-to-day functioning may be seriously or very seriously limited whether an impairment(s) limits only one activity or whether it limits several. *See* 20 CFR 416.926a(e)(2) and (e)(3). Also, we may find that a child has a ''marked'' or ''extreme'' limitation of a domain even though the child does not have serious or very serious limitations every day. As in any case, we must consider the effects of the impairment(s) longitudinally (that is, over time) when we evaluate the severity of the child's limitations.[17] The judgment about whether there is a ''marked'' or ''extreme'' limitation of a domain depends on the importance and frequency of the limited activities and the relative weight of the other considerations described above.

Adjudicators must also be alert to the possibility that limitation of several seemingly minor activities may point to a larger problem that requires further evaluation. For example, a young child may have serious difficulty with common childhood activities such as scribbling, using scissors, or copying shapes, which in themselves may not appear to be important to age-appropriate functioning. It would be unlikely, however, that a young child would have *serious* difficulty with those common activities but have no trouble with other activities, such as buttoning a shirt or printing letters, that also involve fine motor or perceptual-motor ability. Such additional difficulties would indicate that the child has more significant problems with age-appropriate functioning than just scribbling, using scissors, or copying shapes alone might suggest.

Finally, the rating of limitation of a domain is not an ''average'' of what activities the child can and cannot do. When evaluating whether a child's functioning is age-appropriate, adjudicators must consider evidence about all of the child's activities. We do not ''average'' all of the findings in the evidence about a child's activities to come up with a rating for the domain as a whole. The fact that a child can do a particular activity or set of activities relatively well does not negate the difficulties the child has in doing other activities.

IV. Example of a Functional Equivalence Analysis

In this section, we provide an example of how we would consider a child's activities at the functional equivalence step. In this example, we provide only partial evidence to illustrate how we consider activities and sort them into the domains. We do not rate the severity of the limitations because we are not providing complete evidence and because rating severity based on a specific set of case facts would not be useful in other cases.

Example: A parent files a claim on behalf of her 8-year-old son, alleging that anxiety keeps him from living normally, going to school regularly, and playing with other children. The evidence establishes that the child has a generalized anxiety disorder (GAD) that is ''severe'' but that does not meet or medically equal listing 112.06.

A. How does the child function?

The child says that he cannot sleep because he is afraid of the dark and the noises he hears outside, and that he needs to be awake and keep his eyes open as long as possible in case anything happens. His mother reports that he refuses to go to bed, must be coaxed into his room, frequently will not stay there, and gets up and watches television until he falls asleep in front of it. He does not sleep well at night and in the daytime is often irritable. Sometimes, he is combative. He cries when he has to leave for school, and his mother must sometimes ride with him on the school bus. His teacher reports a reduction in his energy and attention in school, that he has trouble focusing in class and does little work at school or at home, and that he may not be promoted at the end of the year because he has fallen behind in his learning. She also reports that he sometimes refuses to leave the classroom for recess or activities anywhere else in the school building or playground, and that an aide must stay with him when he does. She says that the child seems suspicious of other children in his class because he frequently reports things they do and say that worry and frighten him.

The child is seen regularly by a clinical psychologist. Results of formal evaluation, including an anxiety scale and a depression inventory, contribute to a profile of GAD. His pediatrician prescribed two kinds of medications, but both had unacceptable side effects, so the child does not take them. He is in play therapy.

B. Which domains are involved in the child's limited activities?

The following chart[18] provides a picture of the child's functioning, including information about several factors that are relevant to determining the severity of his limitations; for example, help from a parent and school aide, medications, and play therapy. As shown in the chart, the descriptions from the evidence about how the child functions must be specific, not general. For example, ''the child is anxious'' is a general conclusion, while the notes in the chart below state specifically what the child does and how he does it, based on his own words and the observations of the medical sources and adults who know him and spend the most time with him.

[17] For example, in 20 CFR 416.924a(b)(8), we provide: ''If you have a chronic impairment(s) that is characterized by episodes of exacerbation (worsening) and remission (improvement), we will consider the frequency and severity of your episodes of exacerbation as factors that may be limiting your functioning. Your level of functioning may vary considerably over time. Proper evaluation of your ability to function in any domain requires us to take into account any variations in your level of functioning to determine the impact of your chronic illness on your ability to function over time.'' When we published this rule in 2000, we explained that, while we adopted the language from section 12.00D of the adult mental disorders listings, ''[t]his principle is equally applicable to children and adults, and to both physical and mental impairments.'' *See* 65 FR at 54754.

[18] This chart is for illustration only. We do not require our adjudicators to develop or use such a chart.

Acquiring & using information	Attending & completing tasks	Interacting & relating with others	Moving about & manipulating objects	Caring for yourself	Health & physical well-being
Does little work in class or at home and has fallen behind; may not be promoted to next grade in school.	Attention at school is reduced; has trouble focusing in class; does little work in class or at home.	Despite orders from mother, refuses to go to bed; mother must coax him into bedroom; will not stay in bed; gets up and watches TV until falls asleep. May be combative at home. Sometimes refuses to leave classroom for recess and activities elsewhere; in that case, an aide must stay with him. Frequently reports other children's actions and conversations; seems suspicious of them.	(No limitations.)	Difficulty sleeping; afraid of dark and outside noises; needs to stay awake and keep eyes open (be vigilant). Parent must coax him into bedroom. Will not stay in bed; watches TV until falls asleep. Is irritable because of lack of sleep. Cries when has to leave for school; mother may have to ride bus with him to school. Anxiety scale shows GAD. Child is in play therapy.	Pediatrician has tried short-term Valium; child complained of stomach cramps and headache; tried short-term Ativan; side effects were dizziness and daytime sleepiness.

C. Could the child's medically determinable impairment(s) limit any of his activities?

In the example described above, the medically determinable impairment of GAD clearly accounts for the child's problems, and there is no evidence to the contrary.[19] Therefore, it is appropriate to conclude that the child's GAD results in limitations that are evaluated in five of the six domains, as indicated in the chart above.

V. Responsibility for Determining Functional Equivalence

The responsibility for making functional equivalence determinations depends on the level of the administrative review process.

- For initial and reconsideration determinations, the State agency medical or psychological consultant has the overall responsibility for determining functional equivalence.
- When an SSI recipient has requested a hearing before a disability hearing officer at the reconsideration level, the disability hearing officer determines functional equivalence.
- For cases at the Administrative Law Judge (ALJ) and Appeals Council (AC) levels (when the AC makes a decision), the ALJ or AC determines functional equivalence. 20 CFR 416.926a(n).

While SSR 96–6p [20] requires that an ALJ or the AC must obtain an updated medical expert opinion before making a decision of disability based on *medical* equivalence, there is no such requirement for decisions of disability based on *functional* equivalence. Therefore, ALJs and the AC (when the AC makes a decision) are not required to obtain updated medical expert opinions when they determine that a child's impairment(s) functionally equals the listings.[21]

Effective date: This SSR is effective on March 19, 2009.

Cross-References: SSR 09–2p, Title: Determining Childhood Disability—Documenting a Child's Impairment-Related Limitations; SSR 09–3p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Acquiring and Using Information''; SSR 09–4p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Attending and Completing Tasks''; SSR 09–5p, Title XVI: Determining Childhood Disability—''Interacting and Relating with Others''; SSR 09–6p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Moving About and Manipulating Objects''; SSR 09–7p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Caring for Yourself''; SSR 09–8p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of ''Health and Physical Well-Being''; SSR 98–1p, Title XVI: Determining Medical Equivalence in Childhood Disability Claims When a Child Has Marked Limitations in Cognition and Speech; SSR 96–6p, Titles II and XVI: Consideration of Administrative Findings of Fact by State Agency Medical and Psychological Consultants and Other Program Physicians and Psychologists at the Administrative Law Judge and Appeals Council Levels of Administrative Review; Medical Equivalence; and Program Operations Manual System (POMS) DI 25225.030, DI 25225.035, DI 25225.040, DI 25225.045, DI 25225.050, and DI 25225.055.

[FR Doc. E9–3375 Filed 2–13–09; 8:45 am]

BILLING CODE 4191–02–P

[19] With other facts, additional development might be needed. For example, if the evidence in this case showed that the child performed poorly in sports (which we mention as a typical activity of children without impairments), we would note that GAD would not be expected to affect the child's physical ability to move about and manipulate objects. Therefore, poor performance in sports in a child with GAD might be attributable to something other than the mental disorder. There may not be a medical reason at all: The child might do poorly because he does not like to play any sport, is not good at sports, or is not interested in them. On the other hand, there might be another impairment not yet documented by evidence from an acceptable medical source that would limit motor functioning and interfere with the child's day-to-day activities; in such instances, additional development might be needed to complete the evaluation of the child's functioning.

[20] *See* SSR 96–6p, Titles II and XVI: Consideration of Administrative Findings of Fact by State Agency Medical and Psychological Consultants and Other Program Physicians and Psychologists at the Administrative Law Judge and Appeals Council Levels of Administrative Review; Medical Equivalence, 61 FR 34466 (1996), available at: *http://www.socialsecurity.gov/OP_Home/rulings/di/01/SSR96-06-di-01.html.*

[21] For cases pending at the ALJ and AC levels from States in the Ninth Circuit (Alaska, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, Northern Mariana Islands, Oregon, and Washington) at the time of the ALJ or AC decision, *see* Acquiescence Ruling 04–1(9), *Howard on behalf of Wolff* v. *Barnhart*, 341 F.3d 1006 (9th Cir. 2003)—Applicability of the Statutory Requirement for Pediatrician Review in Childhood Disability Cases to the Hearings and Appeals Levels of the Administrative Review Process—Title XVI of the Social Security Act, 69 FR 22578 (2004), available at: *http://www.socialsecurity.gov/OP_Home/rulings/ar/09/AR2004-01-ar-09.html.*

DEPARTMENT OF STATE

[Public Notice: 6521]

60-Day Notice of Proposed Information Collection: DS–260, Electronic Application for Immigrant Visa and Alien Registration, OMB Control Number 1405–XXXX

Correction

In notice document E9–2776 appearing on page 6686 in the issue of Tuesday, February 10, 2009 make the following correction:

In the second column, under the **DATE(S)** heading, in the third line, ''April 13, 2009'' should read ''February 10, 2009''.

[FR Doc. Z9–2776 Filed 2–13–09; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF STATE

[Public Notice 6528]

Preparations for Holocaust Era Assets Conference—Looted Art & Immovable Property

The Special Envoy for Holocaust Issues at the Department of State is seeking information from interested individuals or organizations regarding the planned conference on Holocaust Era Assets taking place in Prague, June 26–30, 2009.

The Government of the Czech Republic will host this conference, which will address certain unresolved Holocaust asset issues, including Looted Art and Immovable Property. The U.S. Government, through the State Department, will participate in this international conference. In preparation for the Conference, the State Department will host meetings that will take place in its main building (Harry S. Truman Building) on March 2, 2009.

There will be Working Groups in Prague that will each consider the issues of ''looted art'' and ''immovable property.'' Those who wish to provide information to the State Department regarding those issues are invited to register and attend one or both of the following two-hour sessions:

—March 2 at 9:45 a.m.: Preparation for Looted Art Working Group.

—March 2 at 1:45 p.m.: Preparation for Immovable Property Working Group.

If you wish to attend either event, you must register separately for each and as soon as possible. There are space limitations. To register, send an e-mail no later than February 26 to Ms. Jones-Johnson (*Jones-JohnsonCD@state.gov*) with the following information:

Full Name
Date of Birth
Driver's License Number, including State of Issuance, or Alternate Government-Issued Picture ID
Organization which you represent, and its Address and Phone Number
Home Address (only if attending as an individual)
Name of Event which you wish to attend.

Those who are registered and plan to attend are urged to arrive at the Department at least 15 minutes before the starting time for each event to allow time for security screening. Upon arrival, you will need to show valid government-issued identification: For example, a U.S. state driver's license or a passport. The official address of the State Department is 2201 C Street, NW., Washington, DC. However, you must use the ''23rd Street Entrance'' on the West Side of the State Department's Harry S. Truman Building, located on 23rd Street between C Street and D Street, NW., Washington, DC.

Written comments may also be provided to the same e-mail address for Ms. Jones-Johnson cited above.

February 12, 2009.

Ambassador J. Christian Kennedy,

Special Envoy for Holocaust Issues, Department of State.

[FR Doc. E9–3415 Filed 2–13–09; 8:45 am]

BILLING CODE 4710–23–P

DEPARTMENT OF STATE

[Public Notice Number 6526]

Renewal of the Overseas Schools Advisory Council

The Department of State is renewing the Overseas Schools Advisory Council to provide a formal channel for regular consultation and advice from U.S. corporations and foundations regarding American-sponsored overseas schools. The Under Secretary for Management has determined that the committee is necessary and in the public interest.

The Assistant Secretary for Administration will appoint the members of the committee. The committee will follow the procedures prescribed by the Federal Advisory Committee Act (FACA). Meetings will be open to the public unless a determination is made in accordance with the FACA Section 10(d) and 5 U.S.C. 552b(c) (1) and (4) that a meeting or a portion of the meeting should be closed to the public. Notice of each meeting will be provided in the **Federal Register** at least 15 days prior to the meeting date.

For further information, contact Dr. Keith D. Miller, Executive Secretary of the committee at 202–261–8200.

Dated: December 19, 2008.

Keith D. Miller,

Executive Secretary, Overseas Schools Advisory Council, Department of State.

[FR Doc. E9–3284 Filed 2–13–09; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

1st Meeting—Special Committee 221—Aircraft Secondary Barriers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 221 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 221: Aircraft Secondary Barriers.

DATES: The meeting will be held March 3–4, 2009 from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., MacIntosh-NBAA and Hilton-ATA Rooms, 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 221, Aircraft Secondary Barriers. The agenda will include:

- Opening Plenary (Welcome/Introductions/Administrative Remarks, Agenda Overview, RTCA Overview).
- Approval of Summary of the First Meeting held December 3–4, 2008, RTCA Paper No. 031–09/SC221–002.
- Terms of Reference Review/Approval.
- Presentation, Discussion, Recommendations.
- Working Group 1, TOR—Ken Dunlap.
- Working Group Reports.
- Working Group 2, SB Target—Mike Fredericks.
- Working Group 3, IPB MOPS—Chuck Stewart.
- Working Group 4, TPB, BC MOPS—Scott Graham.
- Discussion of Working Group reports: re-allocation of groups, capture learning points, discuss additional or follow-on goals.

• Other Business: New Working Groups?

• Closing Plenary (Establish Agenda for Next Meeting, Date and Place of Next Meeting, Adjourn).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 9, 2009.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. E9–3188 Filed 2–13–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Government/Industry Air Traffic Management Advisory Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Government/Industry Air Traffic Management Advisory Committee.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Government/Industry Air Traffic Management Advisory Committee.

DATES: The meeting will be held March 5, 2009, from 1 p.m. to 4 p.m.

ADDRESSES: The meeting will be held at FAA Headquarters, 800 Independence Avenue, SW., Bessie Coleman Conference Center (2nd Floor), Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org. METRO: L'Enfant Plaza Station (Use 7th & Maryland Exit).*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for the Air Traffic Management Advisory Committee meeting. The agenda will include:

• Opening Plenary (Welcome and Introductions).

• Report from RTCA Task Force on NextGen Mid-Term Implementation (NextGen TF).

• ATMAC Member Discussion and Recommendations.

• Closing Plenary (Other Business, Member Discussion, Adjourn).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 9, 2009.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. E9–3189 Filed 2–13–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2009–10]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before March 9, 2009.

ADDRESSES: You may submit comments identified by Docket Number FAA–2009–0040 by any of the following methods:

• *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for submitting your comments electronically.

• *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.

• *Fax:* Fax comments to the Docket Management Facility at 1–202–493–2251.

• *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

• *Privacy:* We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

• *Docket:* To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Paul Pellicano, Small Airplane Directorate (ACE–111), Federal Aviation Administration, 901 Locust, Room 301, Kansas City, MO 64106, fax 816–329–4090, telephone 770–703–6064; or Ralen Gao, Office of Rulemaking, ARM–209, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, fax 202–267–5075, telephone 202–267–5075.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on February 10, 2009.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

Petitions for Exemption

Docket No.: FAA–2009–0040.

Petitioner: Cirrus Design Corporation.

Section of 14 CFR Affected: 14 CFR, part 23, § 23.1419(a).

Description of Relief Sought: To allow the Cirrus Model SR22 to be certified for flight into known icing without meeting the 61 knot stall speed requirement in § 23.1419(a). Cirrus Design Corporation states, in their request for exemption letter, that the increased safety associated with the operational envelope expansion, without a negative impact on aircraft utility, is in the public interest. Cirrus Design Corporation states that the Model SR22 has the compensating factors listed in paragraph 13.a.(c) of Advisory Circular 23.1419–2D, dated April 19, 2007, and,

therefore, the level of safety will not be adversely affected by this exemption.

[FR Doc. E9–3348 Filed 2–13–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Final Federal Agency Actions on Proposed Highway in North Carolina

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by Army Corps of Engineers (USACE), DoD and Other Federal Agencies.

SUMMARY: This notice announces actions taken by the USACE and other Federal agencies that are final within the meaning of 23 U.S.C. 139(I)(1). The actions relate to a proposed highway project, the Triangle Parkway, which begins at NC 540 in Wake County and ends at I–40 in Durham County, North Carolina. The Triangle Parkway is also known as State Transportation Improvement Program Project U–4763B. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(I)(1). A claim seeking judicial review of the Federal agency actions that are covered by this notice will be barred unless the claim is filed on or before August 17, 2009. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Mr. George Hoops, P.E., Major Projects Engineer, Federal Highway Administration, 310 New Bern Avenue, Suite 410, Raleigh, North Carolina, 27601–1418, Telephone: (919) 747–7022; *e-mail: george.hoops@fhwa.dot.gov*. (Regular business hours are 8 a.m. to 5 p.m.). Ms. Jennifer Harris, P.E., Staff Engineer, North Carolina Turnpike Authority, 5400 Glenwood Avenue, Suite 400, Raleigh, North Carolina, 27612, *Telephone:* (919) 571–3004; *e-mail: jennifer.harris@ncturnpike.org.* (Regular business hours are 8 a.m. to 5 p.m.). Mr. Eric Alsmeyer, Project Manager, U.S. Army Corps of Engineers, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105, Wake Forest, North Carolina 27587, Telephone: (919) 554–4884, extension 23; *e-mail: Eric.C.Alsmeyer@usace.army.mil.* (Regular business hours are 8 a.m. to 5 p.m.).

SUPPLEMENTARY INFORMATION: On August 6, 2008, the FHWA published a ''Notice of Final Federal Agency Actions on Proposed Highway in Wake and Durham Counties, North Carolina'' in the **Federal Register** in Volume 73, Number 152 for the following highway project: The Triangle Parkway, a 3.4-mile long, multi-lane, fully access-controlled, new location roadway. The project is also known as State Transportation Improvement Program (STIP) Project U–4763B. The project would run generally in a north-south direction, roughly parallel to NC 55, Davis Drive, and NC 54. On the south, the project begins at NC 540 in Wake County; on the north, it ends at I–40 in Durham County. The purpose of the project is to improve commuter mobility, accessibility, and connectivity to Research Triangle Park employment center and to reduce congestion on existing north-south routes that serve the Triangle Region, primarily NC 55 and NC 54. The project is known as Federal-Aid Project Number NHS–54(7). The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Environmental Assessment (EA) for the project, approved on February 20, 2008, and the FHWA Finding of No Significant Impact (FONSI) issued on July 29, 2008, approving the Triangle Parkway project, and in other documents in the FHWA administrative record. Notice is hereby given that, subsequent to the earlier FHWA notice, the USACE has taken final agency actions within the meaning of 23 U.S.C. § 139(I)(1) by issuing permits and approvals for the highway project. The actions by the USACE, related final actions by other Federal agencies, and the laws under which such actions were taken, are described in the USACE decisions and its administrative record for the project, referenced as Department of the Army Permit Number 2007–02903. That information is available by contacting the USACE at the address provided above.

Information about the project also is available from the FHWA and the North Carolina Turnpike Authority at the addresses provided above. The FHWA EA and FONSI and the USACE decision can be viewed at the North Carolina Turnpike Authority offices and can be downloaded from the NCTA's project Web site at *http://www.ncturnpike.org/projects/Triangle_Parkway/documents.asp*. This notice applies to all USACE and other Federal agency final actions taken after the issuance date of the FHWA **Federal Register** notice described above. The laws under which actions were taken may include, but are not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].
2. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)].
3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].
4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536], Marine Mammal Protection Act [16 U.S.C. 1361], Anadromous Fish Conservation Act [16 U.S.C. 757(a)–757(g)], Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)], Migratory Bird Treaty Act [16 U.S.C. 703–712], Magnuson-Stevenson Fishery Conservation and Management Act of 1976, as amended [16 U.S.C. 1801 *et seq.*].
5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–11]; Archeological and Historic Preservation Act [16 U.S.C. 469–469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].
6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].
7. *Wetlands and Water Resources:* Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601–4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)–300(j)(6)]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287); Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; TEA–21 Wetlands Mitigation [23 U.S.C. 103(b)(6)(m), 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001–4128].
8. *Hazardous Materials:* Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986 (SARA); Resource Conservation and Recovery Act (RCRA) [42 U.S.C. 6901–6992(k)].
9. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and

Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O.13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(I)(1).

Issued on: February 10, 2009.

George Hoops,

FHWA Major Projects Engineer, Raleigh, North Carolina.

[FR Doc. E9–3259 Filed 2–13–09; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–2008–0053]

Surface Transportation Project Delivery Pilot Program; Caltrans Audit Report

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final report.

SUMMARY: Section 6005 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) established the Surface Transportation Project Delivery Pilot Program, codified at 23 U.S.C. 327. To ensure compliance by each State participating in the Pilot Program, 23 U.S.C. 327(g) mandates semiannual audits during each of the first 2 years of State participation. This final report presents the findings from the second FHWA audit of the California Department of Transportation (Caltrans) under the pilot program.

FOR FURTHER INFORMATION CONTACT: Ms. Ruth Rentch, Office of Project Development and Environmental Review, (202)–366–2034, *Ruth.Rentch@dot.gov,* or Mr. Michael Harkins, Office of the Chief Counsel, (202) 366–4928, *Michael.Harkins@dot.gov,* Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this notice may be downloaded from the Office of the Federal Register's home page at *http://www.archives.gov* and the Government Printing Office's Web site at *http://www.access.gpo.gov.*

Background

Section 6005 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (codified at 23 U.S.C. 327) established a pilot program to allow up to five States to assume the Secretary of Transportation's responsibilities for environmental review, consultation, or other actions under any Federal environmental law pertaining to the review or approval of highway projects. In order to be selected for the pilot program, a State must submit an application to the Secretary.

On June 29, 2007, Caltrans and FHWA entered into a Memorandum of Understanding (MOU) that established the assignments to and assumptions of responsibility to Caltrans. Under the MOU, Caltrans assumed the majority of FHWA's responsibilities under the National Environmental Policy Act, as well as the FHWA's responsibilities under other Federal environmental laws for most highway projects in California.

To ensure compliance by each State participating in the Pilot Program, 23 U.S.C. 327(g) requires the Secretary to conduct semiannual audits during each of the first 2 years of State participation; and annual audits during each subsequent year of State participation. The results of each audit must be presented in the form of an audit report and be made available for public comment. The FHWA solicited comments on the second audit report in a **Federal Register** Notice published on December 8, 2008, at 73 FR 74560. The FHWA received one anonymous comment questioning any time or money saved from participation in the pilot program. This notice provides the final draft of the second FHWA audit report for Caltrans under the pilot program.

Authority: Section 6005 of Public Law 109–59; 23 U.S.C. 315 and 327.

Issued on: February 10, 2009.

Jeffrey F. Paniati,

Acting Deputy Federal Highway Administrator.

Surface Transportation Project Delivery Pilot Program Federal Highway Administration Audit of California Department of Transportation July 28–August 1, 2008

Background

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU, Pub. L.109–59) section 6005(a) established the Surface Transportation Project Delivery Pilot Program (Pilot Program), codified at title 23, United States Code (U.S.C.), section 327. The Pilot Program allows the Secretary to assign, and the State to assume, the Secretary of Transportation's (Secretary) responsibilities under the National Environmental Policy Act (NEPA) for one or more highway projects. Upon assigning NEPA responsibilities, the Secretary may further assign to the State all or part of the Secretary's responsibilities for environmental review, consultation, or other action required under any Federal environmental law pertaining to the review of a specific highway project. When a State assumes the Secretary's responsibilities under this program, the State becomes solely responsible and liable for carrying out the responsibilities it has assumed, in lieu of the Federal Highway Administration (FHWA).

To ensure compliance by each State participating in the Pilot Program, 23 U.S.C. 327(g) mandates that FHWA, on behalf of the Secretary, conduct semiannual audits during each of the first 2 years of State participation; and annual audits during each subsequent year of State participation. The focus of the FHWA audits is to assess a pilot State's compliance with the required Memorandum of Understanding (MOU) [1] and applicable Federal laws and policies, to collect information needed to evaluate the success of the Pilot Program, to evaluate pilot State progress toward achieving its performance measures, and to collect information needed for the Secretary's annual report to Congress on the administration of the Pilot Program. Additionally, 23 U.S.C. 327(g) requires FHWA to present the results of each audit in the form of an audit report. This audit report must be made available for public comment, and FHWA must

[1] Caltrans MOU between FHWA and Caltrans available at: *http://environment.fhwa.dot.gov/strmlng/safe_cdot_pilot.asp.*

respond to public comments received no later than 60 days after the date on which the period for public comment closes.

The California Department of Transportation (Caltrans) published its Application for Assumption (Application) under the Pilot Program on March 14, 2007, and made it available for public comment for 30 days. After considering public comments, Caltrans submitted its application to FHWA on May 21, 2007, and FHWA, after soliciting the views of other Federal agencies, reviewed and approved the application. Then on June 29, 2007, Caltrans and FHWA entered into an MOU that established the assignments to and assumptions of responsibility to Caltrans, which became effective July 1, 2007. Under the MOU, Caltrans assumed the majority of FHWA's responsibilities under NEPA, as well as FHWA's responsibilities under other Federal environmental laws for most highway projects in California. Caltrans' participation in the Pilot Program will be effective through August 2011 (23 U.S.C 327(i)(1)).

Scope of the Audit

This is the second FHWA audit of Caltrans' participation in the Pilot Program. The onsite portion of this audit was conducted by the FHWA audit team in California from July 28 through August 1, 2008. As required in SAFETEA-LU, the second audit assessed Caltrans' compliance with the roles and responsibilities it assumed in the MOU and also provided recommendations to assist Caltrans in conducting a successful Pilot Program.

The audit reviewed the following core areas: (1) Program management; (2) legal sufficiency; (3) performance measures; (4) documentation and file management; (5) training; and (6) quality assurance and quality control measurement. Prior to the onsite visits, FHWA conducted telephone interviews with staff in the Caltrans Headquarters (HQ) office and with staff in Federal resource agency regional offices (Environmental Protection Agency, U.S. Corps of Engineers, U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Administration and U.S.D.A. Forest Service) and the California State Historic Preservation Office. The audit included onsite visits to three Caltrans District Offices: District 7 (Los Angeles), District 8 (San Bernardino), and District 11 (San Diego).

Audit Process and Implementation

Each FHWA audit conducted under the Pilot Program is planned to ensure a pilot State's compliance with the commitments in its MOU with FHWA. FHWA does not evaluate specific project-related decisions made by the State because these decisions are the sole responsibility of the pilot State. However, the scope of the FHWA audits does include the review of the processes and procedures used by the pilot State to reach project decisions in compliance with MOU section 3.2.

Also, Caltrans committed in its Application (incorporated by reference in MOU section 1.1.2) to implement specific processes to strengthen its environmental procedures in order to assume the responsibilities assigned by FHWA hHunder the Pilot Program. The FHWA audits review how Caltrans is meeting each commitment and assesses Pilot Program performance in the core areas specified in the *Scope of the Audit* section of this report.

The Caltrans' Pilot Program commitments address:

- Organization and Procedures under the Pilot Program;
- Expanded Quality Control Procedures;
- Independent Environmental Decisionmaking;
- Determining the NEPA Class of Action;
- Consultation and Coordination with Resource Agencies;
- Issue Identification and Conflict Resolution Procedures;
- Record Keeping and Retention;
- Expanded Internal Monitoring and Process Reviews;
- Performance Measures to Assess the Pilot Program;
- Training to Implement the Pilot Program;
- Legal Sufficiency Review.

The FHWA audit team included representatives from the following offices or agencies:

- FHWA Office of Project Development and Environmental Review;
- FHWA Office of Chief Counsel;
- FHWA Alaska Division Office;
- FHWA Resource Center Environmental Team;
- Volpe National Transportation Systems Center;
- Advisory Council on Historic Preservation;
- U.S.D.A. Forest Service.

During the onsite audit, FHWA interviewed more than 75 Caltrans staff (from both the Capital and Local Assistance programs) in the 3 District offices and Caltrans' Legal Division staff in each of its 4 offices. The audit team interviewed a cross-section of staff including top senior managers, senior environmental planners, generalists, associate planners, and technical experts. The audit also included a review of the project files and records for over 30 projects managed under the Pilot Program.

FHWA acknowledges that Caltrans identified specific issues during its second self-assessment performed under the Pilot Program (required by MOU section 8.2.6), and has processes in place to work toward resolving each issue. Some issues described in the Caltrans self-assessment may overlap with FHWA findings in this audit report. This audit report documents findings within the scope of the audit and as of the dates of the onsite portion of the audit.

In accordance with MOU section 11.4.1, FHWA provided Caltrans with a 30-day comment period to review the draft audit report. FHWA reviewed the comments received from Caltrans and revised sections of the draft report, where appropriate, prior to publishing it in the **Federal Register** for public comment.

Progress Since the Last Audit

As part of the second FHWA audit of the Caltrans' Pilot Program, FHWA verified that Caltrans demonstrated continued compliance in the ''Compliant'' findings areas identified in the first audit in January 2008. These compliant findings were:

1. *Legal Sufficiency*—Caltrans' Legal Division has developed a consistent process to conduct formal legal sufficiency reviews by attorneys (and has provided basic legal sufficiency training to each reviewing attorney).

2. *Establish Pilot Program Policies and Procedures*—Caltrans currently, in general, complies with MOU section 1.1.2 commitments to establish Pilot Program policy and procedural documentation (as detailed in Caltrans' Application).

3. *Background NEPA Training*—Caltrans' existing Environmental Staff Development Program, outlined in the Application, has processes in place to ensure that Environmental Staff involved in NEPA documentation have the underlying foundational skill sets required in addition to the added skills required to address responsibilities under the Pilot Program.

4. *Training Plan*—Caltrans conducted a training needs assessment specific to the Pilot Program and developed a training plan titled ''Caltrans Surface Transportation Project Delivery Pilot Program Training Plan (Oct. 1, 2007).''

5. *Interagency Agreements that Involve Other Agencies as Signatories*—Caltrans complied with MOU section 5.1.5 as it pertains to the National Historic Preservation Act, Section 106

Programmatic Agreement (PA) by completing an addenda to the PA within 6 months after the effective date of the MOU to reflect Caltrans' assignment of authority under the Pilot Program.

6. *State Commitment of Resources*—The initial evaluation of resources to implement the Pilot Program and the assignment of resources, as of the date of the first audit, is compliant with MOU section 4.2.

FHWA also evaluated progress in resolving ''Deficient'' and ''Needs Improvement'' audit findings from the first FHWA audit.

• *Caltrans addressed ''Deficient'' audit findings from the January 2008 audit as follows:*

(1) *Statement Regarding Assumption of Responsibility*—The required statement regarding assumption of responsibility required by MOU section 3.2.5 appeared on the cover page of each environmental document reviewed in the second audit.

(2) *Records Management*—Caltrans demonstrated progress in the area of records management. The audit team confirmed that project files were present in Districts 7, 8, and 11 as required under the Caltrans Uniform Filing System (UFS). Caltrans is working toward full compliance of the implementation of MOU section 8.3, the Caltrans Application (Section 773.106(b)(3)(i) and (ii)), and the Caltrans Standard Environmental Reference (SER) Chapter 38.

(3) *QA/QC Process*—The audit team observed progress in implementing the Quality Assurance/Quality Control (QA/QC) process for environmental documents developed under the Pilot Program in the following areas:

a. *Completion of the Quality Control Certification forms*—The completion of the Internal and External Quality Control Reviews Certification forms improved based on FHWA audit team project file reviews completed in Districts 7, 8, and 11 during the second audit.

b. *Peer Reviewer*—In April 2008, Caltrans revised Chapter 38 of the SER to clarify the description of the peer reviewer function for the QA/QC process for environmental documents produced under the Pilot Program. All of the QC forms reviewed by FHWA in Districts 7, 8, and 11 that were prepared after the change to the SER complied with this requirement.

c. *Internal and External Quality Control Reviews*—Caltrans revised the Internal and External QC certification forms and the Environmental Document Preparation and Review Tool (Environmental Document Checklist) to address feedback from Caltrans staff, the initial Caltrans self-assessment, and the January 2008 FHWA audit.

• *Caltrans addressed ''Needs Improvement'' audit findings from the January 2008 audit as follows:*

(1) *QA/QC Process Related to SER Chapter 38 Procedural and Policy Changes*—Caltrans has created a new section in the SER, titled ''SER Posting History,'' which presents a chronology of changes made in the SER (*i.e.*, SER chapter changed, date of change, summary of change).

(2) *Self-assessment issues and corrective actions*—The second self-assessment completed by Caltrans correlated each identified issue needing improvement to the corrective action(s) being taken to address each issue.

(3) *QA/QC process implementation and documentation*—Caltrans revised SER Chapter 38 in April 2008 to clarify the QA/QC process requirements, the technical specialist review, the internal peer review, the class of action determination, signature authorities, and the options each District may use to communicate that an environmental document is ready for signature. Through interviews with staff in the four Caltrans Districts (Districts 4, 7, 8, and 11) visited, the audit team determined that the Districts are using some format of a ''Ready for Signature'' QC form to transmit to the District Deputy Director that the environmental document is ready for signature.

Key Elements of Implementation

One of the purposes of each FHWA audit of a State Pilot Program is to identify and collect information for consideration by potential future Pilot Program participants. Key elements that are being used by Caltrans in the implementation of the Pilot Program include their SER, particularly Chapter 38–NEPA Delegation, Caltrans annotated outlines for environmental documents, quality control certification forms, environmental document review checklists, and monthly NEPA delegation statewide teleconferences.

During the interviews and project files reviews completed in Districts 7, 8, and 11, the audit team observed the following effective practices:

(1) Use of standard ''spreadsheet'' template to convey the comments of HQ NEPA coordinators on environmental documents to District staff—Through interviews with HQ NEPA coordinators and review of project files, the audit team observed a systematic mechanism used to communicate comments on environmental documents. The HQ NEPA coordinator consolidates the comments on each environmental document reviewed and provides the comments to the District point of contact via a standard ''spreadsheet'' template. The template file includes information on each document section, the comment and action needed, and identifies the commenter. The audit team identified records of these communications in project files. This approach provides a systematic and transparent mechanism to transfer and document communications between HQ and District staff on environmental documents.

(2) Use of intranet sites at Districts to access Pilot Program materials and documents—The audit team determined through interviews with staff at Districts 7, 8, and 11 that each of these Districts use an intranet site (not accessible to the public) to post District specific documents related to the Pilot Program. Maintaining an internal system for all users at the District to access the latest District specific Pilot Program documents provides for improved consistency in implementing the Pilot Program.

(3) File transfer as standard operating procedure when transferring projects between staff—The audit team determined through interviews with Caltrans staff that file transfer procedures were in selective use at some Districts visited during the audit, to address employee turnover or the transitioning of projects between staff. File transfer practices include a file transfer meeting where the generalist hands off all documents to the Senior Planner overseeing the individual's work.

Overall Audit Opinion

Based on the information reviewed, it is the FHWA audit team's opinion that to date, Caltrans has been carrying out the responsibilities it has assumed in keeping with the intent of the MOU and the Application. During the onsite audit, Caltrans staff and management continued to indicate ongoing interest in obtaining constructive feedback on successes and areas for improvement. By addressing the findings in this report, Caltrans will continue to move the program toward success.

Findings Definitions

The FHWA audit team carefully examined Pilot Program areas to assess compliance in accordance with established criteria (*i.e.*, MOU, Application). The time period covered by this second audit report is from the start of the Caltrans Pilot Program (July 1, 2007) through completion of the second onsite audit (August 1, 2008). This report presents audit findings in three areas:

• *Compliant*—Audit verified that a process, procedure or other component of the Pilot Program meets a stated commitment in the Application for Assumption and/or MOU.

• *Needs Improvement*—Audit determined that a process, procedure or other component of the Pilot Program as specified in the Application for Assumption and/or MOU is not fully implemented to achieve the stated commitment or the process or procedure implemented is not functioning at a level necessary to ensure the stated commitment is satisfied. *Action is recommended to ensure success.*

• *Deficient*—Audit was unable to verify if a process, procedure or other component of the Pilot Program met the stated commitment in the Application for Assumption and/or MOU. *Action is required to improve the process, procedure or other component prior to the next audit; or*

Audit determined that a process, procedure or other component of the Pilot Program did not meet the stated commitment in the Application for Assumption and/or MOU. *Corrective action is required prior to the next audit.*

Summary of Findings—July 2008

Findings—Compliant

(C1) *Training of Legal Division Staff*—In compliance with MOU section 12.1.1 and section 773.106(b)(3)(iii) of Caltrans' Application, Caltrans' Legal Division maintains a staff of qualified attorneys supporting the Pilot Program and tracks the trainings attended by each attorney. Attorney training is organized into five core areas (Legal Sufficiency, Section 4(f), Section 7 of the Endangered Species Act, Environmental Tools (internal to Caltrans), and Audit). Additionally, the four Assistant Chief Counsels (ACC) with environmental law responsibilities work together to identify additional training opportunities available statewide. Each ACC has approval authority to fund additional training opportunities for attorneys on their team.

(C2) *Conformity Determinations*—Section 8.5 of the MOU requires that FHWA's California Division Office document the project level conformity determination by transmitting a letter to Caltrans to be included in the Final Environmental Impact Statement (EIS) or Environmental Assessment (EA). Based on interviews with Caltrans staff and review of 15 project files, conformity decisions were completed in accordance with MOU section 8.5.

Findings—Needs Improvement

(N1) *Commitment of Resources*—Section 4.2.2 of the MOU requires Caltrans to maintain adequate organizational and staff capability to effectively carry out the responsibilities it has assumed. Interviews with Caltrans District staff working on Capitol Projects revealed that the Work Breakdown Structure (WBS) code established to track actual time spent on Pilot Program activities is not used in a consistent manner. Inconsistent use and understanding of the WBS code to track labor expenditures under the Pilot Program provides inaccurate information on the resources used to support the Pilot Program. Caltrans should continue to clearly define, communicate and emphasize consistent use of the WBS to staff supporting the Capital Projects component of the Pilot Program, which activities to track using the designated WBS code for the Pilot Program.

Interviews with Caltrans District staff working on Local Assistance Projects revealed an inability to track actual time spent on Pilot Program activities through the use of the Expenditure Authorization system.

Given this two part finding, it is unclear whether Caltrans is able to accurately and fully assess the current and future resource needs for implementation of the Pilot Program.

(N2) *District Training Approaches and Implementation*—MOU section 4.2.2 requires Caltrans to maintain adequate organizational and staff capability to effectively carry out the responsibilities it has assumed under the Pilot Program. A fundamental component of staff capability is maintaining a training program that ensures staff competency to meet Pilot Program responsibilities. The responsibility of identifying individual staff training needs largely falls to managers at the District level. Audit observations in the three Districts visited (Districts 7, 8, and 11) during this audit, along with the one District visited (District 4) during the previous audit, confirmed that considerable variation in training approaches exist between District managers, which can result in potentially widely varying levels of competency among staff. This variation in staff training levels could affect staff competency levels and compliance with commitments under the Pilot Program. As Caltrans HQ and Districts continue to assess and address staff training needs, Caltrans needs to actively monitor how District staff training needs are assessed and demonstrate consistency among and within Districts in the delivery of training in order to achieve a sufficient level of competency among all associated staff. Inconsistencies identified through Caltrans self-assessments and audit findings also serve as a source to identify training needs, including:

(a) Project Files—When to initiate a project file and what information it should contain;

(b) Internal QA/QC Certification Form—Who the reviewers should be and when they should sign the form;

(c) Class of action determinations—What documentation is used, when a determination is required, and who must be involved;

(d) Differentiating between Categorical Exclusions (CE) that fall under section 6004 and section 6005 MOUs between Caltrans and FHWA; and

(e) What approvals and decisions are to be included in quarterly reports on the Pilot Program and at what project stage they are to be reported;

(f) Environmental document transmittals for the legal sufficiency process; and

(g) Environmental document and project file transmittals to transfer projects between staff.

(N3) *Performance Measure Evaluation*—MOU section 10.1.1 requires Caltrans to develop performance measures for the Pilot Program. MOU section 10.1.2 requires FHWA to evaluate these performance measures during the audits and include the evaluation in the audit reports.

FHWA noted the following areas in need of improvement with respect to two Pilot Program performance measures—''Timely Completion of NEPA Process'' and ''Compliance with NEPA and other Federal laws and regulations.''

(a) Performance Measure: Timely Completion of NEPA Process.

(i) Caltrans measures the time to complete the environmental document review and approval process for draft and final documents. While the document review component is one element that Caltrans may use to evaluate performance under the Pilot Program, this performance measure evaluates a relatively minor part of the overall project timeline. In all cases where this current measure is reported, Caltrans needs to provide full disclosure of the limitations of the measure, preferably noting that the time period covered is only a small part of the overall NEPA process. Caltrans should consider expanding this measure to include other elements assumed under the Pilot Program to more robustly

evaluate the timely completion of the NEPA process.

(ii) Caltrans uses baseline data to evaluate progress since assuming Pilot Program responsibilities. Thirty-five environmental documents reviewed and approved prior to the effective data of the MOU (34 EAs and 1 EIS) are used to draw from for performance measure purposes. Variables such as project size, scope, and complexity, as well as any required scheduling coordination with resource agencies, could affect the start time of document reviews and as such any comparisons with Pilot Program projects need to consider these factors. The current approach of using the median time from the beginning of the administrative review process for a document to the document approval date, prior to and during the Pilot Program does not provide a realistic or reliable basis of comparison. At a minimum, the metric does not account for the type of document being reviewed or any of the other variables involved in the projects. A more effective representation of project timing would be to compare the timing of projects prior to and during the Pilot Program by document type (*i.e.*, compare EIS projects to EIS projects) and other relevant variables, such as project size, scope and complexity.

(b) Performance Measure: Compliance with NEPA and other Federal laws and regulations (Maintain documented compliance with requirements of all Federal laws and regulations being assumed). Caltrans measures performance by evaluating the percentage of environmental documents (draft and final) with a completed Environmental Document Preparation and Review Tool and Internal Certification Environmental Document Quality Control Reviews form. Caltrans set at the start of the Pilot Program a desired outcome of this performance measure of a 100 percent completion rate. Based on the results of the first two Caltrans self-assessments, the acceptable completion rate was modified to a phased-in approach over a 2-year period of time (increasing from 75 percent to 95 percent).

The audit team was unable to identify the basis Caltrans used to modify the acceptable completion rate for this performance measure. As Caltrans is using the completion of the Environmental Document Preparation and Review Tool and Internal Certification Environmental Document Quality Control Reviews form as a method of demonstrating compliance with NEPA and other Federal laws and regulations, a completion rate of less than 100 percent would not correlate with the demonstration of compliance with assumed responsibilities under the Pilot Program.

For every compliance related performance measure that is not at 100 percent, Caltrans needs to document each item of noncompliance in the project file and correct each deficiency identified.

Caltrans (with FHWA involvement under MOU section 10.1.1) needs to develop an approach to evaluate the effectiveness of each performance measure and to establish a process to communicate changes implemented for each performance measure.

(N4) *Quarterly Reports*—The quarterly reports Caltrans provides to FHWA under section 8.2.7 of the MOU have not consistently included an accurate listing of all approvals and decisions under the Pilot Program. Quarterly reports received by FHWA have been revised and resubmitted by Caltrans to address reporting data gaps. Audit team review of the content of the quarterly reports and discussions with Caltrans staff who develop input for the quarterly reports suggested that the processes leading to report production is inconsistent in approach to what approvals and decisions are to be reported to Caltrans HQ by the District offices. Clear guidance to the Districts is needed on what approvals and decisions are to be reported and at what stage they are to be reported.

(N5) *Varying Understanding of Section 6004/Section 6005 CEs*—Sections 3.1.1 and 3.1.2 of the MOU define the scope of assignment in terms of the Section 6004 MOU (State Assumption of Responsibility for the Categorical Exclusion program, 23 U.S.C. 326). An inconsistent understanding of determinations of Section 6005 versus Section 6004 project applicability was identified from interviews and review of project files during the audit. For each CE, District staff need to understand the purpose, use of Caltrans procedures associated with CEs and consistently complete and maintain in the project file the Categorical Exemption/Categorical Exclusion Determination form and the Categorical Exclusion Checklist.

(N6) *Creating and Maintaining Project File Protocols*—Section 8.2.4 of the MOU requires that Caltrans maintain project files that include all letters and comments received from governmental agencies, the public, and others relating to the Pilot Program responsibilities. In addition, section 8.2.5 of the MOU requires Caltrans to review and monitor project file documentation through its QA/QC process. In District 7, 8, and 11, the audit team identified a lack of consistent filing and record keeping procedures related to the storage of electronic communications. Caltrans does not maintain a systematic process and has not established formal directives regarding electronic correspondence and/or documents, a lack which could result in the loss of electronic data.

(N7) *Maintenance of Project and General Administrative Files*—Section 8.2.4 of the MOU requires Caltrans to maintain project and general administrative files pertaining to its discharge of the responsibilities assumed under the Pilot Program. The audit team identified inconsistencies with established project files maintenance procedures through file reviews conducted during the audit. The following inconsistencies were noted:

(a) Files with incomplete and/or missing required documentation;

(b) Files missing UFS file tabs;

(c) Electronic correspondence and data not printed and/or located in the project file; and

(d) Project file materials maintained separately from the project file.

Additionally, the audit team identified a lack of direction and consistency among Caltrans staff on what items should be included in the official administrative file. A lack of consistency of filing procedures existed among generalists interviewed during the audit.

(N8) *Establishment of Environmental Project Files*—The audit team observed a lack of clear understanding and inconsistent implementation among Caltrans staff on when to establish environmental project files. SER Chapter 38 ''Instructions for Using the UFS'' states ''Establishing environmental project files based on this UFS as soon as environmental studies begin, and maintaining these files are mandatory.''

(N9) *QA/QC Process Implementation*—The Caltrans QA/QC process developed to comply with section 8.2.5 of the MOU has not been consistently implemented for all projects assumed under the Pilot Program. Caltrans requires that each environmental document be reviewed according to the processes established in the policy memo ''Environmental Document Quality Control Program under the NEPA Pilot Program'' (July 2, 2007). The audit team identified through interviews with Caltrans staff and through project files reviews that an inconsistent understanding and implementation of the steps in the QA/

QC process for environmental documents existed.

The audit identified a general lack of understanding of the purpose of the use of the Internal Certification with respect to its role in the Pilot Program responsibilities assumed. This lack of understanding involves the overall reasoning and logic for the comprehensive progression of authorities of the reviews needed in completion of the certification form. The audit identified a lack of clear understanding among Caltrans staff that the environmental branch chief must be the final signatory. Considering these misunderstandings and the deficient finding (D2) below, the Audit team recommends that Caltrans evaluate the use of the QC Certification Forms to assess whether the intended goals of its use are being met.

Findings—Deficient

(D1) *Performance Measure*—Section 10.1.3 of the MOU requires Caltrans to collect data and monitor its progress in meeting the performance measures in section 10.2 of the MOU, including performance measure 10.2.1(C)(i): ''Assess change in communication among Caltrans, Federal and State resource agencies, and the public.'' Currently, Caltrans has no metric to evaluate this performance measure.

(D2) *QA/QC Certification Process*—To comply with MOU section 8.2.5 and SER Chapter 38, Caltrans requires staff to review each environmental document in accordance with the policy memo titled ''Environmental Document Quality Control Program under the NEPA Pilot Program'' (July 2, 2007). The audit team observed the following deficiencies through Caltrans staff interviews and project file reviews:

(a) SER Chapter 38 section, ''Quality Control Program,'' requires the environmental branch chief's ''quality control review,'' to always constitute the last review. In six instances identified by the audit team, the environmental branch chief was not the final reviewer based on the dates indicated on the forms.

(b) The SER Chapter 38 requires that the Caltrans' independent review of the environmental document not begin until the External QC Certification form has been completed. It was observed in three instances that the completion of the Internal Certification QC form predated the completion of the External Certification QC form.

(D3) *Submission of Environmental Documents for Legal Review*—Three of the four environmental documents the audit team identified as having undergone legal review prior to the July 2008 audit were not submitted in accordance with the procedures specified in the Division of Environmental Affairs (DEA) memorandum dated July 2, 2007, ''Environmental Document Quality Control Program under the NEPA Pilot Program'' (nor, by reference, the then-operative October 15, 2007, Caltrans Legal Division memorandum, ''Procedures for Determining Legal Sufficiency for Environmental Documents under the NEPA Pilot Program''). The procedural deviations identified are as follows:

(a) One NEPA environmental assessment, meeting Caltrans' criteria for a ''Complex EA'' per the July 2, 2007, DEA memorandum (public controversy and controversy over project purpose), underwent legal review prior to approval without the program office having provided the reviewing attorney any of the supporting documentation for ''Complex EAs'' required by the July 2, 2007, and October 15, 2007, memoranda.

(b) Two other transmittals were sent to request the initiation of the formal Legal Sufficiency review without the reviewing attorney having been provided all six items required by the July 2, 2007, and the October 15, 2007, memoranda. In those cases, however, the attorney did eventually receive all required items.

(c) It was observed that a District's transmittal of a Final EIS for Legal Sufficiency review predated the Environmental Branch Chief's certification on the Internal Certification form. The SER Chapter 38 requires that the transmittal to the Legal Division will include the completed and signed Internal and External QC certification forms.

(D4) *Environmental Document Process—Class of Action Determinations*—The audit team found an inconsistent understanding and implementation of the process for documentation of class of action determinations and concurrences. The NEPA process, dictates that the thought process and analysis necessary for the determination of the class of action for a project should be documented as part of the project's record keeping. Sections 771.111(a) and (b) of Title 23, Code of Federal Regulations discuss the determination and identification of the class of action for a project and to verify compliance with these regulations requires some documentation.

Additionally, Chapter 38 of the SER provides a means of documenting class of action determinations via the Preliminary Environmental Analysis Report for State Highway System projects or via the Preliminary Environmental Study form for Local Assistance projects. The procedures also require class of action determinations for all EAs (including Complex EAs) and EISs to be made with the concurrence of the Headquarters Environmental Coordinator. The SER states that, ''obtaining the concurrence of the Headquarters Environmental Coordinator may be done through an e-mail which includes the project description, proposed class of action, and rationale. The Coordinator's e-mail response will provide concurrence.''

The audit team observed through project file review in the 3 Districts visited, the process described in the SER was not consistently followed. In more than six instances, project files did not contain any record of a class of action determination or concurrence. This area was cited as *Needs Improvement* in the January 2008 audit. Interviews with Caltrans staff and review of project files showed varying understanding and compliance with the SER and with Caltrans Application section 773.106 (b)(3)(ii) and MOU section 5.1.1 regarding procedural and substantive requirements.

Response to Comments and Finalization of Report

Only one comment was received by FHWA during the 30-day comment period for the draft audit report. An anonymous comment was submitted that questions the cost and time saving benefits of this Pilot Program. In considering this comment, it appears that this comment relates more to the need for the Pilot Program as opposed to the results of the audit, especially since the comment was submitted prior to the audit report being publicly available. As such, the FHWA feels that there is no need to revise the draft audit report findings to be responsive to this comment, with the exception of the addition of this section.

[FR Doc. E9–3325 Filed 2–13–09; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2009–0001–N–3]

Notice and Request for Comments

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requirements (ICRs) abstracted below have been forwarded

to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collection of information was published on December 10, 2008 (73 FR 75169).

DATES: Comments must be submitted on or before March 19, 2009.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave., SE., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292), or Ms. Nakia Jackson, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave., SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6073). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, Section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR Part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On December 10, 2008, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. 73 FR 75169. FRA received no comments after issuing this 60-day notice. Accordingly, DOT announces that these information collection activities have been re-evaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c).

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements(ICRs) and the expected burden. The revised requirements are being submitted for clearance by OMB as required by the PRA.

Title: Railroad Rehabilitation and Improvement Financing Program.

OMB Control Number: 2130–0548.

Type of Request: Extension of a currently approved collection.

Affected Public: Railroads, State and Local Governments, Other Interested Eligible Parties.

Abstract: Prior to the enactment of the Transportation Equity Act of the 21st Century (''TEA 21''), Title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (the ''Act''), 45 U.S.C. 821 *et seq.*, authorized FRA to provide railroad financial assistance through the purchase of preference shares (45 U.S.C. 825), and the issuance of loan guarantees (45 U.S.C. 831). The FRA regulations implementing the preference share program were eliminated on February 9, 1996, due to the fact that the authorization for the program expired (28 FR 4937). The FRA regulations implementing the loan guarantee provisions of Title V of the Act are contained in 49 CFR 260. Section 7203 of TEA 21, Public Law 105–178 (June 9, 1998), replaces the existing Title V financing programs. The collection of information is used by FRA staff to determine the eligibility of applicants for a loan regarding eligible projects for the improvement/rehabilitation of rail equipment or facilities, the refinancing of outstanding debt for these purposes, or the development of new intermodal or railroad facilities. The aggregate unpaid principal amounts of obligations can not exceed $3.5 billion at any one time and not less than $1 billion is to be available solely for projects benefitting railroads other than Class I carriers.

Annual Estimated Burden Hours: 2,163 hours.

Addresses: Send comments regarding this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, NW., Washington, DC 20503, *Attention:* FRA Desk Officer. Alternatively, comments may be sent via e-mail to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, at the following address: *oira_submissions@omb.eop.gov*.

Comments are invited on the following: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's 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 collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC, on February 10, 2009.

Kimberly Orben,

Director, Office of Financial Management,Federal Railroad Administration.

[FR Doc. E9–3296 Filed 2–13–09; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Application for Special Permits

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

ACTION: Notice.

SUMMARY: In accordance with the procedures governing the application for, and the processing of special permits from the Department of Transportations Hazardous Material Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before March 19, 2009.

Address Comments To: Record Center, Pipeline and Hazardous Materials SafetyAdministration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-

addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue, SE., Washington DC or at *http://dms.dot.gov.*

This notice of receipt of applications for special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law(49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on February 9, 2009.

Delmer F. Billings,

Director, Office of Hazardous Materials, Special Permits and Approvals.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permits thereof
		NEW SPECIAL PERMITS		
14803–N		Beijing China Tank Industry Co., Ltd. Beijing.	49 CFR 173.302a and 180.205.	To authorize the manufacture, marking, sale, and use of non-DOT specification fully wrapped carbon-fiber reinforced aluminum lined cylinders. (modes 1, 2, 3, 4, 5).
14808–N		Amtrol, Inc. West Warwick, RI.	49 CFR 178.51(b),(f)(1) and (2) and (g).	To allow the manufacture, marking, sale and use of a non-DOT specification cylinder, similar to a DOT 4BA. (modes 1, 2, 3, 4, 5).
14809–N		Toyota Motor Sales, U.S.A., Inc. Torrance, CA.	49 CFR 173.159	To authorize the transportation in commerce of wet acid batteries with certain other hazardous materials without voiding the exception in 49 CFR 173.159(e). (mode 1).
14810–N		Olin Corporation, Chlor Alkai Products Division Cleveland, TN.	49 CFR 173.31(b)(2) and 179.15.	To authorize the transportation in commerce of sodium hydroxide solution and/or potassium hydroxide solution in DOT Specification tank cars that do not have pressure relief devices. (mode 2).

[FR Doc. E9–3093 Filed 2–13–09; 8:45 am]

BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 670 (Sub-No. 1)]

Notice of Rail Energy Transportation Advisory Committee Meeting

AGENCY: Surface Transportation Board.

ACTION: Notice of Rail Energy Transportation Advisory Committee meeting.

SUMMARY: Notice is hereby given of a meeting of the Rail Energy Transportation Advisory Committee (RETAC), pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C., App. 2).

DATES: The meeting will be held on Wednesday, March 4, 2009, beginning at 9 a.m., E.S.T.

ADDRESSES: The meeting will be held in the Hearing Room on the first floor of the Surface Transportation Board's headquarters at Patriot's Plaza, 395 E Street, SW., Washington, DC 20423–0001.

FOR FURTHER INFORMATION CONTACT: Scott M. Zimmerman (202) 245–0202. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at: (800) 877–8339.]

SUPPLEMENTARY INFORMATION: RETAC arose from a proceeding instituted by the Board, in *Establishment of a Rail Energy Transportation Advisory Committee*, STB Ex Parte No. 670. RETAC was formed to provide advice and guidance to the Board, and to serve as a forum for discussion of emerging issues regarding the transportation by rail of energy resources, particularly, but not necessarily limited to, coal, ethanol, and other biofuels. The purpose of this meeting is to continue discussions regarding issues such as rail performance, capacity constraints, infrastructure planning and development, and effective coordination among suppliers, carriers, and users of energy resources. The Committee will hear reports from the four RETAC subcommittees (Best Practices, Capacity Planning, Communication, and Performance Measures), review a draft white paper prepared by the Capacity Planning subcommittee, and discuss the impacts of the economic downturn on the rail, utility and ethanol industries' short term outlook and planning.

The meeting, which is open to the public, will be conducted pursuant to RETAC's charter and Board procedures. Further communications about this meeting may be announced through the Board's Web site at *http://www.stb.dot.gov.*

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 721, 49 U.S.C. 11101; 49 U.S.C. 11121.

Decided: February 10, 2009.

By the Board.

Anne K. Quinlan,

Acting Secretary.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. E9–3107 Filed 2–13–09; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

Proposed Information Collections; Comment Request

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of our continuing effort to reduce paperwork and respondent burden, and as required by the Paperwork Reduction Act of 1995, we invite comments on the proposed or continuing information collections listed below in this notice.

DATES: We must receive your written comments on or before April 20, 2009.

ADDRESSES: You may send comments to Mary A. Wood, Alcohol and Tobacco Tax and Trade Bureau, at any of these addresses:

- P.O. Box 14412, Washington, DC 20044–4412;

- 202–927–8525 (facsimile); or
- *formcomments@ttb.gov* (e-mail).

Please send separate comments for each specific information collection listed below. You must reference the information collection's title, form or recordkeeping requirement number, and OMB number (if any) in your comment. If you submit your comment via facsimile, send no more than five 8.5 x 11 inch pages in order to ensure electronic access to our equipment.

FOR FURTHER INFORMATION CONTACT: To obtain additional information, copies of the information collection and its instructions, or copies of any comments received, contact Mary A. Wood, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044–4412; or telephone 202–927–8210.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Department of the Treasury and its Alcohol and Tobacco Tax and Trade Bureau (TTB), as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to comment on the proposed or continuing information collections listed below in this notice, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Comments submitted in response to this notice will be included or summarized in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments are part of the public record and subject to disclosure. Please not do include any confidential or inappropriate material in your comments.

We invite comments on: (a) Whether this information collection is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the information collection's burden; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the information collection's burden on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide the requested information.

Information Collections Open for Comment

Currently, we are seeking comments on the following records and forms:

Title: Labeling and Advertising Requirements under the Federal Alcohol Administration Act.

OMB Number: 1513–0087.

TTB Recordkeeping Number: 5100/1.

Abstract: Bottlers and importers of alcohol beverages must adhere to numerous performance standards for statements made on labels and in advertisements of alcohol beverages. These performance standards include minimum mandatory labeling and advertising statements.

Current Actions: We are making minor corrections to this information collection and are submitting it as a revision.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 6,060.

Estimated Total Annual Burden Hours: 6,060.

Title: Beer for Exportation.

OMB Number: 1513–0114.

TTB Form Number: 5130.12.

Abstract: Untaxpaid beer may be removed from a brewery for exportation without payment of the excise tax normally due on removal. In order to ensure that exportation took place as claimed and that untaxpaid beer does not reach the domestic market, TTB requires certification on TTB F 5130.12.

Current Actions: We are making minor corrections to this information collection and are submitting it as a revision.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit and Federal Government.

Estimated Number of Respondents: 60.

Estimated Total Annual Burden Hours: 5,940.

Title: Usual and Customary Business Records Relating to Wine.

OMB Number: 1513–0115.

TTB Recordkeeping Number: 5120/1.

Abstract: TTB routinely inspects wineries' usual and customary business records to ensure the proper payment of wine excise taxes due to the Federal Government. TTB believes that regulated individuals can not succeed in business without maintaining these records which control the manufacture and sale of wine.

Current Actions: We are making minor corrections to this information collection and are submitting it as a revision.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 4,676.

Estimated Total Annual Burden Hours: 468.

Title: Bond for Drawback under 26 U.S.C. 5131.

OMB Number: 1513–0116.

TTB Form Number: 5154.3.

Abstract: Businesses that use taxpaid alcohol to manufacture nonbeverage products may file a claim for drawback (refund or remittance). Claims may be filed monthly or quarterly. Monthly claimants must file a bond on TTB F 5154.3 to protect the Government's interest.

Current Actions: We are making minor corrections to this information collection and are submitting it as a revision.

Type of Review: Revision of a currently approved collection.

Affected Public: Business and other for-profit.

Estimated Number of Respondents: 52.

Estimated Total Annual Burden Hours: 10.

Title: Label of Major Food Allergens.

OMB Number: 1513–0121.

TTB Recordkeeping/Form Number: None.

Abstract: The collection of information requires labeling of major food allergens used in the production of alcohol beverages and corresponds to the amendments to the Food, Drug and Cosmetics Act (FD&C Act) in Title II of Pub. L. 108–282, 118 Stat. 905.

Current Actions: We are making minor corrections to this information collection and are submitting it as a revision.

Type of Review: Revision of a currently approved collection.

Affected Public: Business and other for-profit.

Estimated Number of Respondents: 5,000.

Estimated Total Annual Burden Hours: 3,700.

Dated: February 9, 2009.

Francis W. Foote,

Director, Regulations and Rulings Division.

[FR Doc. E9–3236 Filed 2–13–09; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations, Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of 26 entities and 14 individuals whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act (''Kingpin Act'') (21 U.S.C. 1901–1908, 8 U.S.C. 1182).

DATES: The designation by the Director of OFAC of the 26 entities and 14 individuals identified in this notice pursuant to section 805(b) of the Kingpin Act is effective on February 10, 2009.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, *tel.:* 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available on OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on demand service, *tel.:* (202) 622–0077.

Background

The Kingpin Act became law on December 3, 1999. The Kingpin Act establishes a program targeting the activities of significant foreign narcotics traffickers and their organizations on a worldwide basis. It provides a statutory framework for the President to impose sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and to the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury consults with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security when designating and blocking the property and interests in property, subject to U.S. jurisdiction, of persons who are found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; or (3) playing a significant role in international narcotics trafficking.

On February 10, 2009, OFAC designated 26 entities and 14 individuals whose property and interests in property are blocked pursuant to section 805(b) of the Foreign Narcotics Kingpin Designation Act.

The list of additional designees is as follows:

Entities

1. EMPRESA EDITORA CONTINENTE PRESS S.A., Avenida Javier Prado, Oeste 640, Lima, Peru; RUC # 20381427391 (Peru); (ENTITY) [SDNTK]

2. SISTEMA DE DISTRIBUCION MUNDIAL, S.A.C. (a.k.a. WORLD DISTRIBUTION SYSTEM); Avenida Jose Pardo No. 601, Piso 11, Lima, Peru; RUC # 20458382779 (Peru); (ENTITY) [SDNTK]

3. AVIANDINA S.A.C., Avenida Jose Pardo 601, Lima, Peru; RUC # 20423916541 (Peru); (ENTITY) [SDNTK]

4. LASA PERU S.A.C., Jr. Emilio Althaus 748, Int. 3, Lima, Peru; RUC # 20509588091 (Peru); (ENTITY) [SDNTK]

5. AERO CONTINENTE E.I.R.L., Avenida Jose Pardo 601, Int. 16, Lima, Peru; RUC # 20510752695 (Peru); (ENTITY) [SDNTK]

6. VUELA PERU S.A.C., Avenida Bolognesi 125, Dpto. 1602, Lima, Peru; RUC # 20508991879 (Peru); (ENTITY) [SDNTK]

7. ASOCIACION CIVIL LOS PROMOTORES AERONAUTICOS, Jr. Los Robles 152, Oficina 7, San Martin de Porres, URB Valdiviezo, Lima, Peru; RUC # 20336637733 (Peru); (ENTITY) [SDNTK]

8. PERU GLOBAL TOURS S.A.C., Calle Soledad 113, Oficina 301, Lima, Peru; RUC # 20509567418 (Peru); (ENTITY) [SDNTK]

9. TRANSPORTES AEREOS UNIDOS SELVA AMAZONICA S.A. (a.k.a. TAUSA S.A.; f.k.a. TRANSPORTES AEREAS UCHIZA S.A.); Calle Soledad 111, Int. 302, Lima, Peru; RUC # 20110372320 (Peru); (ENTITY) [SDNTK]

10. TALLER DE REPARACIONES DE AERODINOS SUS PARTES Y SERVICIOS AEREOS S.A. (a.k.a. TRAPSA); Avenida Aviacion 650, Tarapoto, San Martin, Peru; RUC # 20104242244 (Peru); (ENTITY) [SDNTK]

11. CONTINENTE MOVIL Y SERVICIOS S.R.L., Urb. Residencial Santa Rosa, MZ G Lt. 20, Callao, Peru; RUC # 20383848483 (Peru); (ENTITY) [SDNTK]

12. CORPORACION DE INVERSIONES EMPRESARIALES S.A., Jr. Bolognesi 125, Oficina 1002, Lima, Peru; RUC # 20503541727 (Peru); (ENTITY) [SDNTK]

13. ORIENTE TOURS S.R.L., Jr. Soledad 113, Oficina 302, Lima, Peru; RUC # 20107539884 (Peru); (ENTITY) [SDNTK]

14. REPRESENTACIONES ORIENTE S.R.L., Urb. La Arboleda, Mz. F Int. 10, Trujillo, Peru; RUC # 20275164675 (Peru); (ENTITY) [SDNTK]

15. LUCERO IMPORT S.A.C., Calle Soledad 113, Interior 301, Lima, Peru; RUC # 20432287221 (Peru); (ENTITY) [SDNTK]

16. PERU TOTAL MARKET E.I.R.L., Jr. Washington 1214, Lima, Peru; RUC # 20512036661 (Peru); (ENTITY) [SDNTK]

17. ORIENTE CONTRATISTAS GENERALES S.A., Jr. San Martin 707, Int. 201, Trujillo, Peru; RUC # 20167975616 (Peru); (ENTITY) [SDNTK]

18. EDITORA TRANSPARENCIA S.A., Jr. Bolognesi 125, Dpto. 301, Lima, Peru; RUC # 20508146885 (Peru); (ENTITY) [SDNTK]

19. URANTIA SERVICES S.A., Avenida Jose Pardo 601, Lima, Peru; RUC # 20505575882 (Peru); (ENTITY) [SDNTK]

20. SERVICIOS SILSA S.A.C., Jr. Huantar 278, Lima, Peru; RUC # 20341067112 (Peru); (ENTITY) [SDNTK]

21. PERUVIAN PRECIOUS METALS S.A.C., Jr. Comunidad Industrial 293, Chorillos, Lima, Peru; RUC # 20502799445 (Peru); (ENTITY) [SDNTK]

22. EMPRESA DE TRANSPORTES CHULUCANAS 2000 S.A., Jr. Augusto Gonzales, Olaechea 1311, Urb. Elio, Lima, Peru; RUC # 20458820989 (Peru); (ENTITY) [SDNTK]

23. AERO COURIER CARGO S.A., Avenida Jose Pardo 601, Edificio La Alameda, Lima, Peru; RUC # 20507531823 (Peru); (ENTITY) [SDNTK]

24. LA CROSSE GROUP INC, Vanterpool Plaza, 2nd Floor, Wickhams Cay 1, Road Town, Tortola, Virgin Islands, British; Registration ID 268379 (Virgin Islands, British); (ENTITY) [SDNTK]

25. BLISSEY PANAMA INC., Avenida Central y Calle 4ta, Edificio Plaza Central, Oficina 32, Panama City, Panama; RUC # 2989391409828 (Panama); (ENTITY) [SDNTK]

26. BELLOSOM ENTERPRISE, INC., Avenida Central y Calle 4ta, Edificio Plaza Central, Oficina 32, Panama City, Panama; RUC # 2991141409851 (Panama); (ENTITY) [SDNTK]

Individuals

1. ZEVALLOS GONZALES, Lupe Maritza, c/o AERO CONTINENTE S.A.,

Lima, Peru; c/o EMPRESA EDITORA CONTINENTE PRESS S.A., Lima, Peru; c/o CORPORACION DE INVERSIONES EMPRESARIALES S.A., Lima, Peru; c/o REPRESENTACIONES ORIENTE S.R.L., Trujillo, Peru; c/o ORIENTE CONTRATISTAS GENERALES S.A., Trujillo, Peru; c/o URANTIA SERVICES S.A., Lima, Peru; c/o BLISSEY PANAMA INC., Panama City, Panama; c/o BELLOSOM ENTERPRISE, INC., Panama City, Panama; c/o LA CROSSE GROUP INC, Tortola, Virgin Islands, British; c/o AERO COURIER CARGO S.A., Lima, Peru; c/o TRANSPORTES AEREOS UNIDOS SELVA AMAZONICA S.A., Lima, Peru; Calle Nicolas de Rivera 610, Dpto. 702, Lima, Peru; DOB 17 Sep 1961; LE Number 07607833 (Peru); (INDIVIDUAL) [SDNTK]

2. ZEVALLOS GONZALES, Milagros Angelina, c/o AERO CONTINENTE S.A., Lima, Peru; c/o AVIANDINA S.A.C., Lima, Peru; Calle Jose Maria Sert 201, Lima, Peru; DOB 12 Aug 1968; LE Number 07617157 (Peru); (INDIVIDUAL) [SDNTK]

3. ZEVALLOS GONZALES, Winston Ricardo (a.k.a. ZEVALLOS GONZALES, Ricardo); c/o AERO CONTINENTE S.A., Lima, Peru; c/o AVIANDINA S.A.C., Lima, Peru; c/o CORPORACION DE INVERSIONES EMPRESARIALES S.A., Lima, Peru; c/o TALLER DE REPARACIONES DE AERODINOS SUS PARTES Y SERVICIOS AEREOS S.A., Tarapoto, San Martin, Peru; c/o TRANSPORTES AEREOS UNIDOS SELVA AMAZONICA S.A., Lima, Peru; Avenida Rio Grande 367, Lima, Peru; DOB 11 May 1959; SSN 592–29–5509; LE Number 07942932 (Peru); (INDIVIDUAL) [SDNTK]

4. ZEVALLOS GONZALES, Sara Marilyn, c/o EMPRESA EDITORA CONTINENTE PRESS S.A., Lima, Peru; c/o REPRESENTACIONES ORIENTE S.R.L., Trujillo, Peru; c/o ORIENTE TOURS S.R.L., Lima, Peru; c/o PERU TOTAL MARKET E.I.R.L., Lima, Peru; c/o ORIENTE CONTRATISTAS GENERALES S.A., Trujillo, Peru; c/o SERVICIOS SILSA S.A.C., Lima, Peru; c/o LA CROSSE GROUP INC, Tortola, Virgin Islands, British; c/o AERO COURIER CARGO S.A., Lima, Peru; c/o TRANSPORTES AEREOS UNIDOS SELVA AMAZONICA S.A., Lima, Peru; Calle Trinidad Moran 1316, Lima, Peru; DOB 01 Jan 1963; LE Number 07553224 (Peru); (INDIVIDUAL) [SDNTK]

5. GONZALES GARBANCHO DE ZEVALLOS, Sara Maria, c/o EMPRESA EDITORA CONTINENTE PRESS S.A., Lima, Peru; c/o PERU GLOBAL TOURS S.A.C., Lima, Peru; c/o ORIENTE TOURS S.R.L., Lima, Peru; c/o LUCERO IMPORT S.A.C., Lima, Peru; c/o EDITORA TRANSPARENCIA S.A., Lima, Peru; c/o SERVICIOS SILSA S.A.C., Lima, Peru; c/o PERUVIAN PRECIOUS METALS S.A.C., Lima, Peru; c/o TRANSPORTES AEREOS UNIDOS SELVA AMAZONICA S.A., Lima, Peru; Calle Trinidad Moran 1316, Lima, Peru; DOB 02 Aug 1936; LE Number 07553590 (Peru); (INDIVIDUAL) [SDNTK]

6. HERNANDEZ SAN MARTIN, Ricardo Arturo, c/o AVIANDINA S.A.C., Lima, Peru; c/o PERU GLOBAL TOURS S.A.C., Lima, Peru; Calle Huancavelica 270, URB Santa Patricia, Lima, Peru; DOB 04 Jul 1955; LE Number 10321329 (Peru); (INDIVIDUAL) [SDNTK]

7. MEJIA MAGNANI, John Yvan (a.k.a. MEJIA MAGNANI, Jhon; a.k.a. MEJIA MAGNANI, John Ivan); c/o AERO CONTINENTE S.A., Lima, Peru; c/o SISTEMA DE DISTRIBUCION MUNDIAL S.A.C., Lima, Peru; c/o CONTINENTE MOVIL Y SERVICIOS S.R.L., Callao, Peru; La Ladera MZ. J LT. 14, Las Vinas, Lima, Peru; DOB 20 Apr 1966; LE Number 07541863 (Peru); (INDIVIDUAL) [SDNTK]

8. DESME HURTADO, Maximo Zadi (a.k.a. DESME, Zadi); c/o AVIANDINA S.A.C., Lima, Peru; c/o SISTEMA DE DISTRIBUCION MUNDIAL S.A.C., Lima, Peru; Cerro Alto De La Posada 58, Los Andes, Chile; DOB 21 Aug 1958; LE Number 06367724 (Peru); (INDIVIDUAL) [SDNTK]

9. CANAVAL LANDAZURI, Enrique Antonio, c/o VUELA PERU S.A.C., Lima, Peru; c/o ASOCIACION CIVIL LOS PROMOTORES AERONAUTICOS, Lima, Peru; Avenida Pedro Venturo 687, URB Higuereta, Lima, Peru; DOB 06 Jan 1953; LE Number 07790775 (Peru); (INDIVIDUAL) [SDNTK]

10. PORTILLA BARRAZA, Jorge, c/o ORIENTE CONTRATISTAS GENERALES S.A., Trujillo, Peru; Pasaje Vincente Morales, Poblacion 11 de Septiembre, Arica, Chile; DOB 26 Feb 1948; D.N.I. 52249376 (Chile); (INDIVIDUAL) [SDNTK]

11. ZEVALLOS GONZALES DE ARREDONDO, Maria del Rosario, c/o AVIANDINA S.A.C., Lima, Peru; c/o PERUVIAN PRECIOUS METALS S.A.C., Lima, Peru; Aldabas MZ. 53, LT. 25, Las Gardenias, Lima, Peru; DOB 26 Jun 1956; LE Number 09138069 (Peru); (INDIVIDUAL) [SDNTK]

12. ARANIBAR CASTELLANOS, Percy Dangello, c/o LASA PERU S.A.C., Lima, Peru; c/o EMPRESA DE TRANSPORTES CHULUCANAS 2000 S.A., Lima, Peru; Jr. Augusto Gonzales Olaechea 1311, URB Elio, Lima, Peru; DOB 27 May 1971; LE Number 06778742 (Peru); (INDIVIDUAL) [SDNTK]

13. CARRILLO RODRIGUEZ, Luis Miguel, c/o VUELA PERU S.A.C., Lima, Peru; Orion 130, Ventanilla Naval, Callao, Peru; DOB 01 Dec 1961; LE Number 25693716 (Peru); (INDIVIDUAL) [SDNTK]

14. MEJIA REGALADO, Jose Manuel, Agrp. Block K Dpto 200, Lima, Peru; DOB 18 May 1948; LE Number 07609623 (Peru); (INDIVIDUAL) [SDNTK]

Dated: February 10, 2009.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. E9–3318 Filed 2–13–09; 8:45 am]

BILLING CODE 4811–45–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of Specially Designated Narcotics Trafficker Pursuant to Executive Order 12978

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the name of an individual whose property and interests in property have been unblocked pursuant to Executive Order 12978 of October 21, 1995, *Blocking Assets and Prohibiting Transactions With Significant Narcotics Traffickers.*

DATES: The unblocking and removal from OFAC's list of Specially Designated Nationals and Blocked Persons (the ''SDN list'') of the individual identified in this notice whose property and interests in property were blocked pursuant to Executive Order 12978 of October 21, 1995, is effective on February 10, 2009.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, *tel.*: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on demand service, *tel.*: (202) 622–0077.

Background

On October 21, 1995, the President, invoking the authority, *inter alia,* of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706)

(''IEEPA''), issued Executive Order 12978 (60 FR 54579, October 24, 1995) (the ''Order''). In the Order, the President declared a national emergency to deal with the threat posed by significant foreign narcotics traffickers centered in Colombia and the harm that they cause in the United States and abroad.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, or that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, of: (1) The persons listed in an Annex to the Order; (2) any foreign person determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State: (a) To play a significant role in international narcotics trafficking centered in Colombia, or (b) to materially assist in, or provide financial or technological support for or goods or services in support of, the narcotics trafficking activities of persons designated in or pursuant to the Order; and (3) persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to be owned or controlled by, or to act for or on behalf of, persons designated pursuant to the Order.

On February 10, 2009, the Director of OFAC removed from the SDN list the individual listed below, whose property and interests in property were blocked pursuant to the Order.

The listing of the unblocked individual follows: LUGO VILLAFANE, Jesus Alberto, c/o INVERSIONES Y CONSTRUCCIONES VALLE S.A., Cali, Colombia; Calle 70N No. 14–31, Cali, Colombia; c/o CONCRETOS CALI S.A., Cali, Colombia; c/o INVHERESA S.A., Cali, Colombia; DOB 24 Jun 1951; Cedula No. 14977685 (Colombia) (individual) [SDNT]

Dated: February 10, 2009.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. E9–3319 Filed 2–13–09; 8:45 am]

BILLING CODE 4811–45–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel—Notice of Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Closed Meeting of Art Advisory Panel.

SUMMARY: Closed meeting of the Art Advisory Panel will be held in Washington, DC.

DATES: The meeting will be held March 12, 2009.

ADDRESSES: The closed meeting of the Art Advisory Panel will be held on March 12, 2009, in Room 4200E beginning at 9:30 a.m., Franklin Court Building, 1099 14th Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Karen Carolan, C:AP:AS, 1099 14th Street, NW., Washington, DC 20005. Telephone (202) 435–5609 (not a toll free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App., that a closed meeting of the Art Advisory Panel will be held on March 12, 2009, in Room 4200E beginning at 9:30 a.m., Franklin Court Building, 1099 14th Street, NW., Washington, DC 20005.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of art involved in Federal income, estate, or gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of 26 U.S.C. 6103.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting is concerned with matters listed in section 552b(c)(3), (4), (6), and (7), and that the meeting will not be open to the public.

Sarah Hall Ingram,

Chief, Appeals.

[FR Doc. E9–3322 Filed 2–13–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Disability Compensation; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Advisory Committee on Disability Compensation will meet on March 9–10, 2009, in the Carlton Room, at the St. Regis Washington DC, 923 16th and K Streets, NW., from 8 a.m. to 5 p.m. each day. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the maintenance and periodic readjustment of the VA Schedule for Rating Disabilities. The Committee is to assemble and review relevant information relating to the nature and character of disabilities arising from service in the Armed Forces, provide an ongoing assessment of the effectiveness of the rating schedule and give advice on the most appropriate means of responding to the needs of veterans relating to disability compensation.

The Committee will receive briefings about studies on compensation for veterans with service-connected disabilities and other veteran benefits programs. On the morning of March 10, the Committee will break into subcommittees to work on recommendations. In the afternoon, time will be allocated for receiving public comments. Public comments will be limited to three minutes each. A sign-in sheet will be available.

Members of the public may submit written statements to the Committee before the meeting, or within 10 days after the meeting, by sending them to Ms. Ersie Farber, Designated Federal Officer, Department of Veterans Affairs, Veterans Benefits Administration (211A), 810 Vermont Avenue, NW., Washington, DC 20420. Any member of the public wishing to attend the meeting should contact Ms. Farber at (202) 461–9728.

Dated: February 12, 2009.

By direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. E9–3408 Filed 2–13–09; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Rural Health Advisory Committee; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Veterans' Rural Health Advisory Committee will hold a meeting on March 3–4, 2009, at the Point Hilton Squaw Peak Hotel, 7677 North 16th Street, Phoenix, Arizona.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on health care issues affecting enrolled Veterans residing in rural areas. The Committee will examine programs and policies that impact the provision of VA health care to enrolled Veterans residing in rural areas, and discuss ways to improve and enhance VA services for these Veterans.

On March 3, the Committee will meet in open session from 8 a.m. to 5:30 p.m.

and will receive presentations from the Director of the VA Office of Rural Health (ORH) the Directors of the three (3) ORH Veterans' Rural Health Resource Centers, and community partner representatives.

On March 4, the Committee will convene in a closed session from 8 a.m. to 10 a.m. in order to protect patient privacy as the Committee tours patient treatment areas in the Carl T. Hayden VA Medical Center and receives a demonstration of the VA computerized patient record system. Thus, the closing is in accordance with 5 U.S.C. 552b(c)(6). The Committee will reconvene in open session from 10:30 a.m. to noon at the Point Hilton Squaw Peak Hotel, 7677 North 16th Street, Phoenix, Arizona, for a discussion and wrap-up.

No time will be allocated for receiving oral presentations from the public. However, members of the public may direct questions or submit written statements for review by the Committee not less than 10 days in advance of the meeting to Ms. Kara Hawthorne, Designated Federal Officer, Department of Veterans Affairs (10A5), 810 Vermont Avenue, NW., Washington, DC 20420. Individuals who wish to attend the meeting or require additional information about the meeting should e-mail Ms. Hawthorne at *kara.hawthorne@va.gov*.

Dated: February 10, 2009.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. E9–3257 Filed 2–13–09; 8:45 am]

BILLING CODE 8320–01–P

Reader Aids

Federal Register

Vol. 74, No. 30

Tuesday, February 17, 2009

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.gpoaccess.gov/nara/index.html**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.archives.gov/federal_register**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

Reminders. Effective January 1, 2009, the Reminders, including Rules Going Into Effect and Comments Due Next Week, no longer appear in the Reader Aids section of the Federal Register. This information can be found online at **http://www.regulations.gov.**

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, FEBRUARY

5797–5898 2
5899–5982 3
5983–6116 4
6117–6222 5
6223–6350 6
6351–6538 9
6539–6822 10
6823–6988 11
6989–7178 12
7179–7284 13
7285–7548 17

CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
8344 6343
8345 6345
Executive Orders:
12835 (amended by 13499) 6979
12859 (amended by 13450) 6981
13201 (revoked by 13496) 6107
13202 (revoked by 13502) 6985
13204 (revoked by 13495) 6103
13208 (revoked by 13502) 6985
13258 (revoked by 13497) 6113
13422 (revoked by 13497) 6113
13494 6101
13495 6103
13496 6107
13497 6113
13199 (amended by 13498) 6533
13498 6533
13499 6979
13500 6981
13501 6983
13502 6985
Administrative Orders:
Memorandums:
Memo. of 1/30/2009 5977
Memo. of 1/30/2009 5979
Memo. of 2/4/2009 6347
Memo. of 2/5/2009 6537
Notices:
Notice of February 4, 2009 6349
Presidential Determinations: No. 2009–15 of January 27, 2009 6115

5 CFR

532 6351
Proposed Rules:
532 6003

7 CFR

1400 6117
1412 6352
1779 7179
3575 7179
4279 7179
4280 7179
5001 7179

8 CFR

274a 5899

10 CFR

Ch. I 5797
2 6989
30 6989
40 6989
50 6989
52 6989
60 6989
63 6989
70 6989
71 6989
72 .....5983, 6989
73 6989
76 6989
150 6989
Proposed Rules:
170 7382

11 CFR

100 7285
104 7285
110 7285

12 CFR

208 6223
223 .....6225, 6226
225 6223
360 5797
1250 7304
1773 7304
Proposed Rules:
337 5904
704 6004

14 CFR

39 .....7304, 7306, 7309, 7310
187 6989
Proposed Rules:
25 6557
39 .....6835, 7002, 7004, 7006, 7194, 7196, 7198, 7200, 7202, 7384
234 6249
259 6249
71 .....7010, 7011, 7012, 7204
73 7018
399 6249

16 CFR

1500 6990
Proposed Rules:
Ch. I 6129
255 5810
1500 7021

17 CFR

229 6776
230 6776
232 6776
239 6776
240 .....6456, 6776
249 6776

249b....6456
Proposed Rules:
210....6359
229....6359
230....6359
240....6359, 6485
243....6485
244....6359
249....6359

18 CFR

157....6539
375....6540

20 CFR

404....5807

21 CFR

314....6541
510....6823
520....6541, 7180
522....6993
528....6823
Proposed Rules:
1308....7386

22 CFR

215....5808

24 CFR

30....7313
Proposed Rules:
5....6839
92....6839
908....6839

26 CFR

1....6824, 6828, 6952
301....6829
602....6952
Proposed Rules:
1....6840, 6841, 7021
301....7205

28 CFR

Proposed Rules:
26....6131

29 CFR

403....5899
408....5899
1611....6831
4022....7180
Proposed Rules:
2550....6007

32 CFR

199....6228

33 CFR

105....6994
117....5983, 5984, 5986, 6228, 6229, 7313
147....7181
165....5987, 5989, 6352, 7184
Proposed Rules:
117....6359
165....6842, 7022

36 CFR

Proposed Rules:
242....6250

37 CFR

385....6832

39 CFR

3020....6117, 6230
Proposed Rules:
111....6250
955....6844

40 CFR

6....5991
51....7193, 7284
52....6542, 6552, 7193, 7284
80....6233
112....5900
271....5994
Proposed Rules:
6....6008
50....7027
51....7027
63....6510
271....6010

42 CFR

440....5808
Proposed Rules:
414....6557, 7029

43 CFR

3000....7193

45 CFR

Proposed Rules:
1355....6362
1356....6362

46 CFR

162....6358

47 CFR

15....7314
73....6001, 6120, 6121, 6122, 6233, 6234
90....6235
Proposed Rules:
73....6131, 6132

49 CFR

209....6995
Proposed Rules:
611....7388
612....7388

50 CFR

17....6700
216....6236
300....6995
648....6244, 6997
660....6997
665....6998
679....6554, 6555, 6556, 7001, 7332, 7333, 7359
Proposed Rules:
17....5908, 6122, 6558, 6852, 6853
92....6563
100....6250
216....6010
253....6257
600....6257
622....6257
648....6564, 7029
679....7209

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 2/P.L. 111–3
Children's Health Insurance Program Reauthorization Act of 2009 (Feb. 4, 2009; 123 Stat. 8)
Last List February 2, 2009

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.