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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1291

[Document Number AMS–FV–08–0057; FV–08–379]

RIN 0581–AC88

Specialty Crop Block Grant Program—Farm Bill

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule finalizes regulations to administer the Specialty Crop Block Grant Program—Farm Bill (SCBGP–FB) to enhance the competitiveness of specialty crops. This action finalizes eligibility and application requirements and grant administration procedures for the SCBGP–FB consistent with the Food, Conservation, and Energy Act of 2008 (Farm Bill) amendments to the Specialty Crops Competitiveness Act of 2004. This program is separate from the Specialty Crop Block Grant Program (SCBGP).

DATES: Effective March 30, 2009.

FOR FURTHER INFORMATION CONTACT: Trista Etzig, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0235, Washington, DC 20250–0235; Telephone: (202) 690–4942; Fax: (202) 720–0016; or E-mail: *trista.etzig@usda.gov*.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant for the purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

Public Law 104–4

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on state and local governments and the private sector. Under section 202 of the UMRA, the Agricultural Marketing Service (AMS) generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by state and local governments, in the aggregate, or by the private sector, of $100 million or more in any one year (2 U.S.C. 1532). When such a statement is needed for a rule, section 205 of the UMRA generally requires federal agencies to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost effective, or least burdensome alternative that achieves the objectives of the rule (2 U.S.C. 1535).

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

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any state or local laws, regulations or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Catalog of Federal Domestic Assistance

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.170, Specialty Crop Block Grant Program—Farm Bill.

Executive Order 12372

This program is subject to Executive Order 12372, which requires intergovernmental consultation with state and local officials (See 7 CFR part 3015, subpart V).

Executive Order 12612

It has been determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule would not have a substantial direct effect on states or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

The AMS certifies that this rule will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96–534, as amended (5 U.S.C. 601 *et seq.*). This rule only will impact state departments of agriculture that apply for grant funds. States, as defined under the SCBGP–FB, mean the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands. The States are not small entities under the Act.

Authority for a Specialty Crop Block Grant Program

This program is intended to accomplish the goal of enhancing the competitiveness of specialty crops. The SCBGP–FB is authorized under section 101 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note, amended under section 10109 of the Food, Conservation, and Energy Act of 2008, the Farm Bill). Section 10109 directs the Secretary of Agriculture to make grants to states to be used by state departments of agriculture solely to enhance the competitiveness of specialty crops. This program is separate from the Specialty Crop Block Grant Program (SCBGP) found in 7 CFR part 1290.

Background

The AMS Fruit and Vegetable Program intends to announce every fiscal year that applications may be submitted for participation in a ''Specialty Crop Block Grant Program—Farm Bill'', which will be administered by personnel of AMS.

Mandatory funding is expected to be made available to the Secretary of Agriculture to provide specialty crop block grants of $49 million for fiscal year 2009 and $55 million in each of

fiscal years 2010 through 2012, less USDA administrative costs. Each fiscal year, the AMS intends to publish a notice in the **Federal Register** announcing the program and soliciting grant applications. The notice will include the amount of grant funds available to each state and the application period.

For each fiscal year, each state that submits an application that is reviewed and approved by AMS is to receive at least an amount that is equal to the higher of $100,000, or ⅓ of 1 percent of the total amount of funding made available for that fiscal year to enhance the competitiveness of specialty crops. In addition, each state will receive an amount that represents the proportion of the value of specialty crop production in the state in relation to the national value of specialty crop production using the latest available complete specialty crop production data set in all states whose applications are accepted.

All 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands are eligible to participate. SCBGP–FB applications will be accepted from any state department of agriculture, that means the agency, commission, or department of a state government responsible for agriculture within the state.

''Specialty crops'' for the purpose of this rule, means fruits and vegetables, tree nuts, dried fruits, horticulture and nursery crops (including floriculture). The inclusion of horticulture means turfgrass sod is a covered commodity.

Projects that support biobased products and bioenergy and energy programs, including biofuels and other alternative uses for agricultural and forestry commodities (development of biobased products) should see the USDA energy Web site at: *http://www.usda.gov/rus/index2/0208/EnergyPrograms.htm* for information on how to submit those projects for consideration to the energy programs supported by USDA. Also, agricultural cooperatives, producer networks, producer associations, local governments, nonprofit corporations, public health corporations, economic development corporations, regional farmers' market authorities and Tribal governments that are interested in submitting projects that support farmers' markets that do not solely enhance the competitiveness of eligible specialty crops should visit the Farmers' Market Promotion Program (FMPP) Web site at: *http://www.ams.usda.gov/fmpp* for information on how to submit those projects for consideration to FMPP.

Section 1291.4 prescribes that grant funds shall be used solely to enhance the competitiveness of eligible specialty crops and benefit the specialty crop industry and/or the public. For a list of eligible specialty crops and ineligible commodities, please refer to the SCBGP Web site at *http://www.ams.usda.gov/fv*.

Section 1291.6 prescribes application procedures that include a State plan to indicate how grant funds will be utilized solely to enhance the competitiveness of specialty crops. For examples on how to complete the application, please refer to the SCBGP–FB Web site at *http://www.ams.usda.gov/fv*.

State departments of agriculture are required to describe their outreach efforts to specialty crop producers, including socially disadvantaged and beginning farmers, and describe their efforts to conduct a competitive process to ensure maximum public input and benefit.

Section 1291.9 prescribes that states who do not apply for or do not request all available funding during the specified grant application period will forfeit all or that portion of available funding not requested for that application year. Funds not obligated will be allocated pro rata to the remaining states who applied during the specified grant application period to be solely expended on projects previously approved in their State plan.

A technical correction was made to § 1291.10(d) to add the SCBGP–FB to the statement that AMS, after reasonable notice to a State, and opportunity to be heard, finds that there has been a failure by the State to comply substantially with any provision or requirement of the State plan, AMS may disqualify, for one or more years, the State from receipt of future grants under the SCBGP or SCBGP–FB.

An interim final rule was published in the **Federal Register** on September 4, 2008 (73 FR 51585). Interested persons were invited to submit written comments until November 3, 2008. During the comment period, five comments were received. Comments were received from specialty crop organizations, one state department of agriculture and a university. AMS has considered each comment timely submitted, and they are discussed below.

Summary of Comments Received

Completed Application

One commenter suggested that the language in § 1291.6(d)(1), ''If outreach was performed to specialty crop producers, including socially disadvantaged and beginning farmers of specialty crops regarding the SCBGP–FB, provide a description of the affirmative steps taken to perform this outreach to these groups'' does not adequately comply with the statement in the Joint Explanatory Statement of the Committee of Conference on pages 239–240 (Farm Bill Managers report) requesting USDA to ''encourage each state making applications for funding under the Specialty Crop Block Grant Program to provide a written plan detailing the affirmative steps it will take to perform outreach to specialty crop producers in the development of the state's overall grant plan, including outreach to socially disadvantaged and beginning farmers of specialty crops.'' The commenter requests the language be revised to require an annual written plan and a demonstration of real, iterative progress in funding projects that benefit socially disadvantaged and beginning farmers of specialty crops. While AMS believes the language in the interim final rule adequately addresses the concerns raised in the Farm Bill Managers report, AMS has amended § 1291.6(d)(1) to require the affirmative steps each state has made in conducting outreach to socially disadvantaged and beginning farmers including how the these groups were identified and the methods used to reach out to them. If steps were not taken to conduct outreach to these groups, provide a justification why not. In addition, definitions for both beginning farmers and socially disadvantaged farmers have been added to § 1291.2.

One commenter suggested the language in § 1291.6(d)(1), ''Indicate if a competitive process was used to solicit and evaluate grant proposals from all interested parties. If a competitive process was not used to solicit and evaluate grant proposals, explain why not'' does not meet the intent of the statement in the Farm Bill Managers report requesting USDA to ''encourage state departments of agriculture to develop their grant plans through a competitive process in order to ensure maximum public input and benefit.'' The commenter recommends the language be amended to include a clear, positive statement of the expectation that grants will generally be competitive, and that at a minimum, a competitive award should be made by a peer review panel that includes a full range of interested stakeholders and experts and that any exceptions to this should be explained in full. AMS has evaluated this comment and while this comment has merit, AMS believes that the states should have flexibility in

establishing processes for conducting fair and equitable reviews of grant proposals. Nonetheless, AMS is revising § 1291.6(d)(1) to request a description of the fair and equitable grant proposal review process used by the state department of agriculture.

One commenter requested that amendments be made to § 1291.6 to comply with the Farm Bill Managers Report language urging the USDA to ''encourage state departments of agriculture to develop their grant plans through a competitive process in order to ensure maximum public input and benefit. The Managers expect the Secretary to ensure that states conduct extensive outreach to interested parties through a transparent process of receiving and considering public comment so that grant applications are developed with proven and justified public support, particularly when developing applications for multistate projects.''

The commenter recommended that states be required to describe the outreach conducted by the state to specialty crop stakeholders and specialty crop organizations to determine their priority needs and to solicit proposals; describe the criteria used by the state to evaluate the projects proposed for funding, including but not limited to how reviews are conducted; and provide a copy of the request for proposals issued in a competitive process or provide justification for not using a competitive process. These comments have merit and § 1291.6(d)(1) has been revised to require states to identify the methods used to solicit proposals that meet specialty crop stakeholders needs and to request a description of the fair and equitable grant proposal review process. The commenter also recommended that states describe how the projects funded will enhance productivity and competitiveness of specialty crop agriculture in their state; and describe any stakeholders and organizations that proposed and/or supported funded projects. The State plan criteria described in § 1291.6(d) requires states to describe how funds will be utilized to enhance the competitiveness of specialty crops and § 1291.6(d)(9) requires states to describe how all grant partners commit to and work towards supporting the goals and outcomes of measures of the proposed projects. Accordingly, no changes have been made as a result of this comment.

The commenter also recommended states delineate whether approved projects received additional funding from state resources. The Specialty Crops Competitiveness Act of 2004, as amended, does not contain a statutory provision for a matching requirement from the state. In addition, under § 1291.5(c), grant funds shall supplement the expenditure of state funds in support of specialty crops grown in the state, rather than replace state funds. AMS includes this provision in the terms and conditions in each grant agreement and expects to focus on compliance by the states with this provision. Accordingly, no changes have been made as a result of this comment.

The same commenter also requested that states describe ''to the extent possible, how the projects will leverage other public and private investments for maximum benefits.'' This comment has merit. AMS is amending § 1291.6(d)(1) to require states to include in the description of the competitive grant process, the steps taken to receive and consider public comment to identify specialty crop stakeholders' priority needs in enhancing the competiveness of specialty crops and the process used to conduct a fair and equitable grant proposal review process. Therefore, in their grant application to AMS, the states will be responsible for including projects that provide maximum benefit to the specialty crop stakeholders based upon their competitive grant process.

One commenter requested the states describe how funding is being used to strictly promote specialty crops as defined under the Act for projects directed at state marketing programs and to address the Farm Bill Managers report which stated that, ''The Managers expect the Secretary to carefully monitor the use of funds under grant awards to ensure that funds are promoting specialty crops as defined under the Specialty Crops Competitiveness Act of 2004 and are not being used in generically cross-marketing other commodities which fall under state marketing programs but are outside the scope of the Act's definition.'' This comment has merit and AMS has clarified § 1291.4(a) to read, ''To be eligible for a grant, the project(s) must solely enhance the competitiveness of U.S. grown or U.S. territory grown eligible specialty crops, in either domestic or foreign markets''. In addition, AMS clarified § 1291.6(d)(3) to read, ''If funding is being directed at a state marketing program, describe how the state will ensure that funding is being used solely to enhance the competitiveness of specialty crops as defined under § 1291.2(n).''

One commenter recommended states identify if state property is purchased with grant funds. Under § 1291.6(b), for each proposed project, states are required to submit form SF–424A, ''Budget Information—Non-Construction Programs'', which requires a state to specify dollar amounts for each budget category, including categories for types of property. In addition, under § 1291.6(d)(7), states are required to provide for each project a detailed budget narrative providing sufficient information about the budget categories listed on the SF–424A to demonstrate that funds are being expended on eligible grant activities. Furthermore, AMS has amended § 1291.5 to add that ''capital expenditures for general purpose equipment, buildings, and land are unallowable as direct and indirect charges'' and that ''capital expenditures for specialty purpose equipment are allowable as direct costs, provided that items with a unit cost of $5000 or more have the prior approval of AMS''. Section 1291.5 has also been amended to add that ''rental costs of buildings and equipment are allowable as direct costs in accordance with the cost principles in Subpart T of 7 CFR 3015.'' Sec. 1291.2 has also been amended to add a definition for ''capital expenditures'', ''equipment'', ''general purpose equipment'', and ''specialty purpose equipment''.

One commenter recommended states describe how they are focusing on multi-state and regional projects to comply with the Farm Bill Managers Report language, ''The Managers therefore request that the Secretary encourage state departments of agriculture to submit grant plans that include multi-state and regional project proposals.'' AMS specifies that multi-state projects are eligible projects under § 1291.4(d) and in the State plan under § 1291.6(d)(10). In addition, we are revising § 1291.6(d)(1) to reiterate that multi-state projects are eligible.

Eligible Grant Projects

One commenter suggests the language in § 1291.6(d)(1), ''Identify if an award was made to either a socially disadvantaged or beginning farmer'' be changed to, ''Identify if an award was made to an association or organization to be used solely for the benefit of socially disadvantaged or beginning farmers'' to conform with the eligible grant project requirements under § 1291.4(c). The language under Sec. 1291.4(c) does not restrict or limit awards to single individuals as subgrantees, but instead states they are eligible if they participate with a project partner to execute a project that benefits the specialty crop industry rather than a single individual. Accordingly, no

changes have been made as a result of this comment.

One commenter requests further guidance from AMS on the eligibility of projects where a state department of agriculture proposes to make further awards of funding to subgrantees. AMS has revised § 1291.6(d)(1) to require state departments of agriculture to include in the description of the competitive grant process the steps taken to solicit proposals that meet specialty crops stakeholders needs.

Purpose and Scope

One commenter recommended the inclusion of the following items to the definition of ''enhancing the competitiveness'' of specialty crops: value-added enterprises, entrepreneurship, local and regional food systems, value chain development, marketing infrastructure, consumer labeling, beginning farmers of specialty crops, socially disadvantaged farmers of specialty crops, preservation of farmland dedicated to specialty crop production, and extension. AMS has amended § 1291.1 to encourage states to develop projects pertaining to specific issues affecting the specialty crop industry.

Unobligated Funds

One commenter requested the language stating unobligated funds will be allocated ''pro rata to the remaining states who applied during the specified grant application period to be solely expended on projects previously approved in their State plan'' be amended to take into consideration the Farm Bill Managers Report, which states that, ''The Managers also request the Secretary to give strong consideration to multi-state projects when reallocating unobligated block grant funding.'' The language in § 1291.9(b) reflects the statutory language that appears in Sec. 10109(i) of the Food, Conservation, and Energy Act of 2008. If a state that previously submitted an approved multi-state project receives reallocated block grant funding, the state could give consideration to reallocating funds to that previously approved multi-state project, but not to any new multi-state projects. Accordingly, no changes are made as a result of this comment.

Review of Grant Applications

One commenter requested further detail be provided in regard to what is expected in the grant application in relation to the language in § 1291.7 that states, ''AMS may request the applicant provide additional information or clarification''. This section states grant applications will be reviewed and approved or rejected for conformance with § 1291.6, a provision that contains details on what documentation should be included in the completed application. Accordingly, no changes are made as a result of this comment.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), AMS submitted the information collection included in this rulemaking to the Office of Management and Budget (OMB) and obtained approval of the information collection under OMB number 0581–0248.

Comments were invited on the information collection in September 4, 2008, interim final rule. The deadline for comments was November 3, 2008. No comments were received on the information collection.

The estimated one-time annual cost for all state departments of agriculture in providing information to the Specialty Crop Block Grant Program-Farm Bill is $37,097. This total has been estimated by multiplying 1,439 total burden hours by $25.78, an average of mean hourly earnings by state and local government white collar (excluding sales) employees. Data for computation of this hourly wage were obtained from the U.S. Department of Labor Statistic's publication ''National Compensation Survey: Occupational Wages in the United States, June 2005'', published August 2006 (Bulletin 2581). This publication can also be found at the following Web site: *http://www.bls.gov/ncs/ocs/sp/ncbl0832.pdf.*

Effective Date

Because the Farm Bill requires the Secretary of Agriculture to make available approximately $49 million in grant funds in fiscal year 2009, which ends September 30, 2009, pursuant to 5 U.S.C. 553, it is found, and determined, that good cause exists for not postponing the effective date of this final rule until 30 days after publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1291

Agriculture, Reporting and recordkeeping requirements, Specialty crop block grants.

■ Accordingly, the interim final rule adding 7 CFR part 1291 which was published at 73 FR 51585 on September 4, 2008, is adopted as a final rule with the following changes:

PART 1291—SPECIALTY CROP BLOCK GRANT PROGRAM—FARM BILL

■ 1. The authority citation for part 1291 continues to read as follows:

Authority: 7 U.S.C. 1621 note, as amended.

■ 2. Revise § 1291.1 to read as follows:

§ 1291.1 Purpose and scope.

(a) Pursuant to the authority conferred by Section 101 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note), as amended by Section 10109 of the Food, Conservation, and Energy Act of 2008, Public Law 110–246, AMS will make grants to states to enhance the competitiveness of specialty crops in accordance with the terms and conditions set forth herein and other applicable federal statutes and regulations, including, but not limited to, 7 CFR part 3015 and part 3016.

(b) AMS encourages states to develop projects solely to enhance the competitiveness of specialty crops pertaining to the following issues affecting the specialty crop industry: increasing child and adult nutrition knowledge and consumption of specialty crops; participation of industry representatives at meetings of international standard setting bodies in which the U.S. government participates; improving efficiency and reducing costs of distribution systems; assisting all entities in the specialty crop distribution chain in developing ''Good Agricultural Practices'', ''Good Handling Practices'', ''Good Manufacturing Practices'', and in cost-share arrangements for funding audits of such systems for small farmers, packers and processors; investing in specialty crop research, including organic research to focus on conservation and environmental outcomes; enhancing food safety; developing new and improved seed varieties and specialty crops; pest and disease control; and sustainability.

■ 3. Revise § 1291.2 to read as follows:

§ 1291.2 Definitions.

(a) *AMS* means the Agricultural Marketing Service of the U.S. Department of Agriculture.

(b) *Application* means the application for the Specialty Crop Block Grant Program—Farm Bill (SCBGP–FB).

(c) *Beginning farmer or rancher* means an individual or entity who has not operated a farm or ranch for more than 10 years and substantially participates in the operation.

(d) *Capital expenditures* means expenditures for the acquisition cost of capital assets (equipment, buildings,

land), or expenditures to make improvements to capital assets that materially increase their value or useful life. Acquisition cost means the cost of the asset including the cost to put it in place. Acquisition cost for equipment, for example, means the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in transit insurance, freight, and installation may be included in, or excluded from the acquisition cost in accordance with the governmental unit's regular accounting practices.

(e) *Equipment* means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of the capitalization level established by the governmental unit for financial statement purposes, or $5000.

(f) *General purpose equipment* means equipment, which is not limited to research, scientific or other technical activities. Examples include office equipment and furnishings, telephone networks, information technology equipment and systems, reproduction and printing equipment, and motor vehicles.

(g) *Grant period* means the period of time from when the grant agreement is signed to the completion of all SCBGP-FB projects submitted in the State plan.

(h) *Grantee* means the government to which a grant is awarded and which is accountable for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the grant agreement.

(i) *Indirect costs* means those costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved.

(j) *Outcome measure* means an event or condition that is external to the project and that is of direct importance to the intended beneficiaries and/or the public.

(k) *Project* means all proposed activities to be funded by the Specialty Crop Block Grant Program—Farm Bill.

(l) *Socially disadvantaged farmer or rancher* means a farmer or rancher who is a member of a socially disadvantaged group. A ''Socially Disadvantaged Group'' is a group whose members have been subject to discrimination on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program.

(m) *Special purpose equipment* means equipment which is used only for research, scientific, or other technical activities.

(n) *Specialty crop* means fruits and vegetables, tree nuts, dried fruits, horticulture and nursery crops (including floriculture).

(o) *State* means the fifty states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(p) *State department of agriculture* means the agency, commission, or department of a state government responsible for agriculture within the state.

(q) *Subgrantee* means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of funds provided.

■ 4. Revise paragraph (a) of § 1291.4 to read as follows:

§ 1291.4 Eligible grant project.

(a) To be eligible for a grant, the project(s) must solely enhance the competitiveness of U.S. grown or U.S. territory grown eligible specialty crops, in either domestic or foreign markets.

* * * * *

■ 5. Add new paragraphs (e), (f), and (g) to § 1291.5 to read as follows:

§ 1291.5 Restrictions and limitations on grant funds.

* * * * *

(e) Capital expenditures for general purpose equipment, buildings, and land are unallowable as direct and indirect charges.

(f) Capital expenditures for special purpose equipment are allowable as direct costs, provided that items with a unit cost of $5000 or more have the prior approval of AMS.

(g) Rental costs of buildings and equipment are allowable as direct costs in accordance with the cost principles in subpart T of 7 CFR part 3015.

■ 6. Revise § 1291.6 to read as follows:

§ 1291.6 Completed application.

Completed applications shall be clear and succinct and shall include the following documentation satisfactory to AMS.

(a) One SF–424 ''Application for Federal Assistance''.

(b) SF–424A ''Budget Information—Non-Construction Programs'' showing the budget for each project.

(c) One SF–424B ''Assurances—Non-Construction Program''.

(d) Completed applications must also include one State plan to show how grant funds will be utilized solely to enhance the competitiveness of specialty crops. The State plan shall include the following:

(1) *Cover page and granting processes.* Include the point of contact and lead agency for administering the plan. Provide a description of the affirmative steps taken to conduct outreach to socially disadvantaged farmers and beginning farmers. Describe how these groups were identified and the methods used to reach out to them. Identify if an award was made to either a socially disadvantaged farmer or a beginning farmer. If steps were not taken to conduct outreach to these groups, provide a justification for why not. Provide a description of the affirmative steps taken to conduct a competitive grant process. Include the steps taken to conduct outreach to specialty crop stakeholders to receive and consider public comment to identify their priority needs in enhancing the competiveness of specialty crops. Identify the methods used to solicit proposals that meet specialty crop stakeholders' needs, including any focus on multi-state projects. Include a description of the process used to review proposals in a fair and equitable manner. State departments of agriculture may also provide a copy of the issued request for proposals. If a competitive grant process was not used, provide a justification why not.

(2) *Project title and abstract.* Include the title of the project and an abstract of 200 or fewer words for each project.

(3) *Project purpose.* For each project, clearly state the purpose of the project. Describe the specific issue, problem, interest, or need to be addressed. Explain why the project is important and timely. If funding is being directed at a state marketing program, describe how the state will ensure that funding is being used solely to enhance the competitiveness of specialty crops as defined in § 1291.2(n). If a project builds on a previous Specialty Crop Block Grant Program (SCBGP) or SCBGP–FB project, indicate clearly how the new project compliments previous work. For each project, indicate if the project will be or has been submitted to or funded by another Federal or State grant program.

(4) *Potential impact.* Discuss the number of people or operations affected, the intended beneficiaries of each

project, and/or potential economic impact if such data are available and relevant to the project.

(5) *Expected measurable outcomes.* For each project, describe at least one distinct, quantifiable, and measurable outcome-oriented objective that directly and meaningfully supports the project's purpose. The measurable outcome-oriented objective must define an event or condition that is external to the project and that is of direct importance to the intended beneficiaries and/or the public. Outcome measures may be long term that exceed the grant period. Describe how performance toward meeting outcomes will be monitored. For each project, include a performance-monitoring plan to describe the process of collecting and analyzing data to meet the outcome-oriented objectives.

(6) *Work plan.* For each project, explain briefly the activities that will be performed to accomplish the objectives of the project. Be clear about who will do the work. Include appropriate time lines.

(7) *Budget narrative.* The limit on indirect costs, not to exceed 10 percent, will be published in a **Federal Register** notice each fiscal year. Provide a justification if indirect costs exceed 10 percent or exceed that fiscal year's limit as announced in the **Federal Register**. Provide in sufficient detail information about the budget categories listed on SF–424A for each project to demonstrate that grant funds are being expended on eligible grant activities that meet the purpose of the program.

(8) *Project oversight.* Describe the oversight practices that provide sufficient knowledge of grant activities to ensure proper and efficient administration for each project.

(9) *Project commitment.* Describe how all grant partners commit to and work toward the goals and outcome measures of each proposed project(s).

(10) *Multi-state projects.* If the project is a multi-state project, describe how the states are going to collaborate effectively with related projects with one state assuming the coordinating role. Indicate the percent of the budget covered by each state.

■ 7. Revise the last sentence of § 1291.10(d) to read as follows:

§ 1291.10 Reporting and oversight requirements.

* * * * *

(d) * * * If AMS, after reasonable notice to a State, and opportunity to be heard, finds that there has been a failure by the State to comply substantially with any provision or requirement of the State plan, AMS may disqualify, for one or more years, the State from receipt of future grants under the SCBGP or SCBGP–FB.

* * * * *

Dated: March 23, 2009.

Robert C. Keeney,

Acting Associate Administrator.

[FR Doc. E9–6816 Filed 3–26–09; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE–2008–BT–TP–0004]

RIN 1904–AB75

Energy Conservation Program: Test Procedures for Battery Chargers and External Power Supplies (Standby Mode and Off Mode)

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is amending its test procedures for battery chargers (BCs) and external power supplies (EPSs) to include provisions for measuring standby mode and off mode energy consumption, as directed by the Energy Independence and Security Act of 2007 (EISA 2007). Furthermore, DOE is adding to its single-voltage external power supply test procedure specifications for testing switch-selectable external power supplies. Finally, DOE is extending the current certification reporting requirements to the Class A external power supplies for which Congress established energy efficiency standards in EISA 2007.

DATES: This rule is effective April 27, 2009. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register on April 27, 2009.

ADDRESSES: You may review copies of all materials related to this rulemaking at the U.S. Department of Energy, Resource Room of the Building Technologies Program, 950 L'Enfant Plaza, SW., Suite 600, Washington, DC, (202) 586–2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards at the above telephone number for additional information regarding visiting the Resource Room. Please note: The Department's Freedom of Information Reading Room no longer houses rulemaking materials.

FOR FURTHER INFORMATION CONTACT: Mr. Victor Petrolati, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–4549. E-mail: *Victor.Petrolati@ee.doe.gov*.

Ms. Francine Pinto, Esq., or Mr. Michael Kido, Esq., U.S. Department of Energy, Office of General Counsel, GC–72, 1000 Independence Avenue, SW., Washington, DC 20585. Telephone: (202) 586–7432, or (202) 586–8145. E-mail: *Francine.Pinto@hq.doe.gov* or *Michael.Kido@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: This final rule incorporates by reference, into part 430 the following industry standard:

- California Energy Commission (CEC), ''Test Method for Calculating the Energy Efficiency of Single-Voltage External AC–DC and AC–AC Power Supplies,'' August 11, 2004.

You can obtain free copies of the CEC Test Method from the California Energy Commission, 1516 Ninth Street, MS–25, Sacramento, CA 95814, (916) 654–4091, or *http://www.efficientpowersupplies.org/methods.asp*.

The following standards are referred to in the DOE test procedures and elsewhere in this part, but are not incorporated by reference. These sources are provided solely for information and guidance.

- IEC 62301, ''Household electrical appliances—Measurement of standby power,'' First Edition, June 13, 2005.
- IEC 60050, ''International Electrotechnical Vocabulary.''
- IEEE 1515–2000, ''IEEE Recommended Practice for Electronic Power Subsystems: Parameter Definitions, Test Conditions, and Test Methods,'' March 30, 2000.
- IEEE 100, ''Authoritative Dictionary of IEEE Standards Terms,'' Seventh Edition, January 1, 2006.

You can purchase copies of IEC Standards 62301 and 60050 from the American National Standards Institute, 11 West 42nd Street, New York, New York 10036, (212) 642–4936, or *http://webstore.iec.ch*.

You can purchase copies of IEEE Standards 1515–2000 and 100 from the Institute of Electrical and Electronics Engineers, Inc., 3 Park Avenue, 17th Floor, New York, NY 10016–5997, (212) 419–7900, or *http://www.ieee.org/web/publications/standards*.

You can also view copies of these standards at the U.S. Department of Energy, Resource Room of the Building Technologies Program, 950 L'Enfant Plaza, SW., 6th Floor, Washington, DC 20024, (202) 586–2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

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I. Background and Legal Authority

Title III of the Energy Policy and Conservation Act, as amended (42 U.S.C. 6291 *et seq.*; EPCA) sets forth a variety of provisions designed to improve energy efficiency. Part A [1] of title III (42 U.S.C. 6291–6309) establishes the ''Energy Conservation Program for Consumer Products Other Than Automobiles.'' The consumer (''covered products'') currently subject to this program include battery chargers and external power supplies (referred to respectively as ''BCs'' and ''EPSs''). Manufacturers of covered products are required to use the relevant DOE test procedures to certify compliance with the energy conservation standards adopted under EPCA.

Section 323(b) of EPCA authorizes DOE to amend or establish new test procedures as appropriate for each of the covered products. (42 U.S.C. 6293(b)) This section provides that ''[a]ny test procedures prescribed or amended under this section shall be reasonably designed to produce test results which measure energy efficiency, energy use, water use (in the case of showerheads, faucets, water closets and urinals), or estimated annual operating cost of a covered product during a representative average use cycle or period of use, as determined by the Secretary [of Energy], and shall not be unduly burdensome to conduct.'' (42 U.S.C. 6293(b)(3)) In addition, EPCA states that DOE ''shall determine, in the rulemaking carried out with respect to prescribing such procedure, to what extent, if any, the proposed test procedure would alter the measured energy efficiency, measured energy use, or measured water use of any covered product as determined under the existing test procedure.'' (42 U.S.C. 6293(e)(1))

Of particular relevance to the present test procedure rulemaking, section 135 of the Energy Policy Act of 2005 (EPACT), Public Law 109–58, amended sections 321 and 325 of EPCA by providing definitions for BCs and EPSs and directing the Secretary to prescribe ''definitions and test procedures for the power use of battery chargers and external power supplies.'' (42 U.S.C. 6295(u)(1)(A)) DOE complied with this requirement by publishing a test procedure final rule, 71 FR 71340, on December 8, 2006, which included definitions and test procedures for BCs and EPSs. DOE codified the test procedure for BCs in appendix Y to subpart B of part 430 in title 10 of the Code of Federal Regulations (CFR) (''Uniform Test Method for Measuring the Energy Consumption of Battery Chargers'') and the test procedure for EPSs in appendix Z to subpart B of 10 CFR part 430 (''Uniform Test Method for Measuring the Energy Consumption of External Power Supplies'').

On December 19, 2007, the Energy Independence and Security Act of 2007 (EISA 2007), Public Law 110–140, amended sections 321, 323, and 325 of EPCA, prompting DOE to propose amendments to its test procedures for BCs and EPSs. These amendments were published in the August 15, 2008, notice of proposed rulemaking (NOPR), 73 FR 48054.

Section 301 of EISA 2007 amended section 321 of EPCA by modifying definitions concerning EPSs. EPACT had amended EPCA to define an EPS as ''an external power supply circuit that is used to convert household electric current into DC current or lower-voltage AC current to operate a consumer product.'' [2] (42 U.S.C. 6291(36)(A)) Section 301 of EISA 2007 further amended this definition by creating a subset of EPSs called Class A External Power Supplies. EISA 2007 defined this subset as those EPSs that, in addition to meeting several other requirements common to all EPSs,[3] are ''able to convert to only 1 AC or DC output voltage at a time'' and have ''nameplate output power that is less than or equal to 250 watts.'' (42 U.S.C. 6291(36)(C)(i)) Section 301 also amended EPCA to establish minimum standards for these products, which became effective on July 1, 2008 (42 U.S.C. 6295(u)(3)(A)), and directed DOE to publish a final rule by July 1, 2011, to determine whether to amend these energy conservation

[1] This part was originally titled Part B; however, it was redesignated Part A after Part B was repealed by Public Law 109–58.

[2] The terms ''AC'' and ''DC'' refer to the polarity (*i.e.*, direction) and amplitude of current and voltage associated with electrical power. For example, a household wall socket supplies alternating current (AC), which varies in amplitude and reverses polarity. In contrast, a battery or solar cell supplies direct current (DC), which is constant in both amplitude and polarity.

[3] The full EISA 2007 definition of a class A external power supply includes a device that ''(I) is designed to convert line voltage AC input into lower voltage AC or DC output; (II) is able to convert to only 1 AC or DC output voltage at a time; (III) is sold with, or intended to be used with, a separate end-use product that constitutes the primary load; (IV) is contained in a separate physical enclosure from the end-use product; (V) is connected to the end-use product via a removable or hard-wired male/female electrical connection, cable, cord, or other wiring; and (VI) has nameplate output power that is less than or equal to 250 watts.'' (42 U.S.C. 6291(36)(C)(i)).

standards for EPSs. (42 U.S.C. 6295(u)(3)(D))

In addition, section 309 of EISA 2007 amended section 325(u)(1)(E) of EPCA, instructing DOE to issue ''a final rule that determines whether energy conservation standards shall be issued for external power supplies or classes of external power supplies.'' (42 U.S.C. 6295(u)(1)(E)(i)(I)) As explained in the August 15, 2008, NOPR, DOE interpreted this section as a requirement to determine by December 19, 2009, whether energy conservation standards shall be issued for non-Class A EPSs. See 73 FR 48054, 48056.

Section 310 of EISA 2007 amended section 325 of EPCA to establish definitions for active mode, standby mode, and off mode. This section also directed DOE to amend its existing test procedures by December 31, 2008, to measure the energy consumed in standby mode and off mode for both BCs and EPSs. Further, it authorized the Department to amend, by rule, any of the definitions for active, standby, and off mode as long as the Department takes into consideration the most current versions of Standards 62301 (''Household Electrical Appliances—Measurement of Standby Power'') and 62087 (''Methods of Measurement for the Power Consumption of Audio, Video and Related Equipment'') of the International Electrotechnical Commission (IEC). (See EPCA, section 325(gg)(2)(A), codified at 42 U.S.C. 6295(gg)(2)(A).)

DOE's proposals were presented and explained at a public meeting on September 12, 2008. DOE invited written comments, data, and information on the NOPR and accepted such material through October 29, 2008.

II. Summary of the Final Rule

In this final rule, DOE is modifying the current test procedures for BCs and EPSs. The amendments achieve the following objectives:

(1) Address the statutory requirement to expand test procedures to incorporate measurement of standby mode and off mode energy consumption for BCs and single-voltage EPSs, including switch-selectable single-voltage EPSs;

(2) Clarify the existing single-voltage EPS test procedure by revising existing definitions and adopting new ones; and

(3) Incorporate certification requirements for EPSs subject to minimum efficiency standards effective July 1, 2008.

Table 1 lists the sections of 10 CFR part 430 affected by the amendments promulgated in this final rule. The left column in the table cites the locations of the provisions in the CFR that are being changed, while the right lists the changes themselves.

TABLE 1—SUMMARY OF CHANGES PROMULGATED IN THIS FINAL RULE AND AFFECTED SECTIONS OF 10 CFR PART 430

Existing section in 10 CFR part 430	Summary of modifications
Section 430.2 of Subpart A—Definitions	• Defines an external power supply design family.
Section 430.4 of Subpart A—Reference Sources	• Inserts new technical references.
Section 430.23 of Subpart B—Test Procedures for the Measurement of Energy and Water Consumption.	• Modifies ''(aa) battery charger'' and ''(bb) external power supply'' to include energy consumption in standby mode and off mode.
Appendix Y to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Battery Chargers.	
1. Scope	• No change.
2. Definitions	• Modifies the definition for standby mode. • Inserts definitions for cradle, manual on-off switch, and off mode.
3. Test Apparatus and General Instructions	• No change.
4. Test Measurement	• Inserts procedures to measure energy consumption in standby mode and off mode.
Appendix Z to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of External Power Supplies.	
1. Scope	• Modifies scope to encompass all types of energy consumption of external power supplies.
2. Definitions	• Clarifies existing definitions for: Active mode ○ Active mode efficiency ○ No-load mode ○ Total harmonic distortion ○ True power factor • Inserts new definitions for: ○ Active power ○ Ambient temperature ○ Apparent power ○ Instantaneous power ○ Manual on-off switch ○ Minimum output current ○ Multiple-voltage external power supply ○ Nameplate input frequency ○ Nameplate input voltage ○ Nameplate output current ○ Nameplate output power ○ Nameplate output voltage ○ Off mode ○ Output bus ○ Standby mode ○ Switch-selectable single-voltage external power supply ○ Unit under test
3. Test Apparatus and General Instructions	• Divides section 3 into 3(a) for single-voltage EPSs and 3(b) for multiple-voltage EPSs. • Maintains the existing test procedure for single-voltage EPSs in 3(a).

TABLE 1—SUMMARY OF CHANGES PROMULGATED IN THIS FINAL RULE AND AFFECTED SECTIONS OF 10 CFR PART 430—Continued

Existing section in 10 CFR part 430	Summary of modifications
4. Test Measurement	• Reserves section 3(b) for a future multiple-voltage EPS test procedure. • Divides section 4 into 4(a) for single-voltage EPSs and 4(b) for multiple-voltage EPSs. ○ Maintains the existing active and standby mode test procedure for single-voltage EPSs in 4(a)(i). ○ Inserts new off mode test procedure for single voltage EPSs in 4(a)(ii). ○ Reserves section 4(b) for a future multiple-voltage EPS test procedure.
Section 430.62 of Subpart F—Submission of Data	• Inserts submission requirement for active mode efficiency and no-load power consumption data for EPSs and switch-selectable single-voltage EPSs.

DOE believes that today's amendments neither alter the measured energy efficiency of the tested products nor add any burden on the industry because the changes only (1) clarify existing test procedures or (2) insert test procedures for modes that are not regulated by standards. Thus, DOE is amending its test procedures as summarized in the following sections.

A. Standby Mode and Off Mode Definitions and Test Procedures

As explained in the August 15, 2008, NOPR, the standby and off mode definitions created by EISA 2007 do not apply to all BCs and EPSs. Therefore, following the requisite consideration of IEC standards 62301[4] and 62087,[5] DOE proposed amended definitions.

In today's final rule, DOE (1) adopts amended definitions of standby mode and off mode for BCs and EPSs, (2) revises the test procedures to measure standby mode and off mode energy consumption for BCs and EPSs; and (3) includes a definition of a ''manual on-off switch'' to clarify the application of the above test procedures. A detailed discussion of the definitions and test procedures for standby and off mode can be found in sections III.A and III.B below.

B. Clarification of Test Procedure Definitions

In the August 15, 2008, NOPR, DOE proposed amendments to the definitions to improve the clarity of the existing test procedures. Through written and oral comments, stakeholders suggested additional clarifications to the definitions. Accordingly, in today's final rule, DOE is modifying the definitions of numerous terms, listed in Table 1. A detailed discussion of these definitions can be found in section III.C.

C. Switch-Selectable Single-Voltage EPSs

DOE proposed in the August 15, 2008, NOPR a method for testing single-voltage EPSs that incorporate a switch-selectable output voltage. For these EPSs, DOE proposed that testing be conducted twice: first with the output voltage set to the highest voltage and then with the output voltage set to the lowest voltage. Stakeholders did not oppose this proposal; therefore, DOE is including it in this final rule. Section III.D provides a brief discussion of testing requirements for switch-selectable EPSs.

D. Certification Requirements for EPSs

Manufacturers of covered and regulated products must report to DOE that the products they manufacture comply with applicable energy conservation standards. To demonstrate compliance with EISA 2007 standards for Class A EPSs manufacturers must: (1) Select a representative sample of units, (2) test them according to the DOE test procedure, and (3) certify the compliance of the EPS model(s) based on the test results of the sample.

DOE proposed sampling requirements for BCs and EPSs on July 25, 2006. 71 FR 42178, 42204. While some of the provisions from that proposal were finalized in the December 8, 2006, final rule, 71 FR 71340, the sampling requirements are in the process of being finalized in a separate rulemaking proceeding. Manufacturers are not required to certify compliance with EISA 2007 standards to DOE until these sampling requirements are finalized; however, manufacturers are required to be in compliance with the standards.

DOE also proposed test procedures for measuring the energy efficiency of BCs (appendix Y) and EPSs (appendix Z) in the July 25, 2006, NOPR. 71 FR 42178, 42206–42207. These were finalized in the December 8, 2006, final rule, 71 FR 71340, 71368. Amendments to these test procedures are discussed in sections III.A, III.B, III.C, and III.D.

Finally, DOE proposed definitions of ''basic model'' and ''covered product'' as they apply to BCs and EPSs in the July 25, 2006, NOPR. 71 FR 42178, 42203. The December 8, 2006, final rule inserted these definitions into 10 CFR 430.2. 71 FR 71340, 71365–71366. However, because of the absence of standards, DOE did not propose certification requirements for EPSs or BCs in the July 25, 2006 NOPR. Following the passage of EISA 2007 on December 19, 2007, and the establishment of mandatory standards for Class A EPSs, DOE proposed certification requirements for Class A EPSs in the August 15, 2008, NOPR. 73 FR 48054, 48072–48076. In addition, DOE considered an alternate methodology by which manufacturers would certify the compliance of each basic model, but only submit test results for the highest- and lowest-voltage basic models within a design family (*i.e.*, a group of similar models that differ only by output voltage). 73 FR 48054, 48073–48074 (August 15, 2008). Based on stakeholder comments, DOE is including this methodology in today's final rule, as discussed further in section III.E.

E. Proposed Amendments Not Adopted in the Final Rule

DOE also proposed several other amendments to the EPS test procedure. Due to the number of stakeholder comments and the limited timeframe for this rulemaking, DOE has decided to postpone consideration of these

[4] IEC 62301, ''Household Electrical Appliances—Measurement of Standby Power,'' International Electrotechnical Commission, First edition, June 2005.

[5] IEC 62087, ''Methods of Measurement for the Power Consumption of Audio, Video and Related Equipment,'' International Electrotechnical Commission, Second edition, October 2008.

proposals and exclude them from this final rule.

The August 15, 2008, NOPR proposed to amend the EPS test procedure to allow for testing of multiple-voltage EPSs, a type of EPS subject to the non-Class A determination analysis. Because no test procedure currently exists to measure the efficiency or energy consumption of multiple-voltage EPSs, DOE developed a proposed test procedure. See 73 FR 48054, 48064–48068 (August 15, 2008). Due to the limited time provided by EISA 2007 and limited resources available prior to the publication of this final rule, DOE was unable to address the large number of stakeholder comments received and decided to defer action on multiple-voltage EPSs to a 2009 rulemaking.

In the August 15, 2008, NOPR, DOE also considered making limited changes to the test setup and measurement instructions for single-voltage EPSs that would have been modeled on its proposed test procedure for multiple-voltage EPSs. These changes were intended to reduce the testing burden and improve the accuracy and repeatability of measurement by accounting for the limitations of test equipment and laboratory conditions. Stakeholders from environmental and consumer groups as well as other standard-setting organizations, however, were concerned that modifying the EPS single-voltage test procedure would undo international efforts to enact consistent test procedures and standards for single-voltage EPSs. Because of these negative comments, DOE decided to exclude any amendments affecting the measurement of single-voltage EPSs in active and no-load modes from this final rule.

Lastly, this final rule does not include an active mode test procedure for BCs. Because DOE did not include an active mode BC test procedure in the August 15, 2008, NOPR, including one in this particular final rule would have prevented the public from having an opportunity to comment on this issue. (42 U.S.C. 6293(b)(3)) DOE does, however, intend to propose an active mode BC test procedure in 2009 and solicit comments to address this issue in greater detail.

III. Discussion

A. Standby Mode and Off Mode Definitions

In the August 15, 2008, NOPR, DOE proposed that for BCs, standby mode (or no-load mode) [6] is ''the condition in which (1) the battery charger is connected to the main electricity supply; (2) the battery is not connected to the charger; and (3) for battery chargers with manual on-off switches, all switches are turned on.'' 73 FR 48054, 48060. Off mode is the condition, for battery chargers with manual on-off switches, ''in which the battery charger is (1) connected to the main electricity supply; (2) is not connected to the battery; and (3) all switches are turned off.'' 73 FR 48054, 48061 (August 15, 2008).

DOE proposed similar definitions for EPSs, except that in standby and off modes, EPSs were to be disconnected from their loads rather than from a battery. DOE proposed to define standby mode to mean ''the condition in which the EPS is in no-load mode and, for external power supplies with on-off switches, all switches are turned on,'' 73 FR 48054, 48062 (August 15, 2008), and no-load mode to mean ''the mode of operation when an EPS is connected to the main electricity supply and the output is (or ''all outputs are'' for a multiple-voltage external power supply) not connected to a load (or ''loads'' for a multiple-voltage external power supply.),'' 73 FR 48054, 48062 (August 15, 2008). DOE also proposed to define off mode as ''the condition, applicable only to units having on-off switches, in which the external power supply is (1) connected to the main electricity supply; (2) the output is not connected to any load; and (3) all switches are turned off.'' 73 FR 48054, 48063 (August 15, 2008).

DOE received comments on three issues related to the proposed definitions for standby and off mode: (1) Harmonization of the standby and off mode definitions with international standards; (2) differentiation between EPS no-load mode and BC no-battery mode; and (3) clarification of the definition of the on-off switch used to distinguish standby mode from off mode for both BCs and EPSs. A discussion of stakeholder comments on these issues is presented below.

1. Harmonization of Standby and Off Mode Definitions

During the test procedure public meeting held on September 12, 2008, Microsoft recommended that DOE harmonize with standby and off mode definitions and test procedures proposed in the European Union. (Pub. Mtg. Tr., No. 17 at p. 71) [7] Similarly, the U.S. Environmental Protection Agency (EPA) and the Australian Department of the Environment, Water, Heritage, and the Arts (Australia) commented that DOE should not develop a separate definition for standby mode, lest it interfere with a forthcoming version of IEC Standard 62301 on standby power measurement. (EPA, No. 31 at p. 1; Australia, No. 20 at p. 2) [8] The Association of Home Appliance Manufacturers (AHAM), however, noted that although DOE is correct to consider IEC Standard 62301 in defining standby mode, it should not include it by reference, because the IEC standard is a ''living document'' and subject to change. (Pub. Mtg. Tr., No. 17 at p. 82)

As required by the EISA 2007 amendments to section 323 of EPCA (62 U.S.C. 6295(gg)(B)), the proposed definitions of standby and off mode were developed after considering IEC Standards 62301 and 62087. However, as described in the August 15, 2008, NOPR, these international standards apply to a variety of electronic products, and do not provide the specific guidance necessary for repeatable measurement of BC and EPS standby and off mode energy consumption. Also, the differing scope between IEC Standard 62301 and DOE's EPS test procedure should allay Australia's concern with conflicts between the two. Therefore, today's final rule maintains the structure of the definitions and test procedures presented in the August 15, 2008 NOPR and does not incorporate IEC Standard 62301.

The standby mode definition in today's final rule references the no-load mode definition, which comes from EPA's internationally recognized ''Test Method for Calculating the Energy Efficiency of Single-Voltage External AC–DC and AC–AC Power Supplies.'' [9]

[6] For BCs, the two modes were proposed to be equivalent; however, in the final rule, DOE is dropping the term ''no-load mode'' in favor of ''no-battery mode.'' For EPSs, the two modes are *similar:* standby mode is no-load mode, except with all manual on-off switches turned on. However, because the no-load mode test procedure already requires that the EPS be tested with all manual on-off switches turned on, the test procedure for no-load mode and standby mode are the *same*.

[7] A notation in the form ''Pub. Mtg. Tr., No. 17 at p. 71'' identifies an oral comment that DOE received during the September 12, 2008, NOPR public meeting. This comment was recorded in the public meeting transcript in the docket for this rulemaking (Docket No. EERE–2008–BT–TP–0004), maintained in the Resource Room of the Building Technologies Program. This particular notation refers to a comment (1) recorded in document number 17, which is the public meeting transcript filed in the docket of this rulemaking and (2) appearing on page 71 of document number 17.

[8] A notation in the form ''EPA, No. 31 at p. 1'' identifies a written comment that DOE has received and has included in the docket of this rulemaking. This particular notation refers to (1) a comment submitted by the Environmental Protection Agency (EPA), (2) in document number 31 in the docket of this rulemaking, and (3) appearing on page 1 of document number 37.

[9] The development of this test procedure was funded by the California Energy Commission's Public Interest Energy Research Program (PIER),

Accordingly, the adoptionof today's test procedure, which is based on EPA's internationally recognized protocol for EPSs, fosters continued international harmonization of energy efficiency testing procedures.

2. Differentiation Between EPS No-Load Mode and BC No-Battery Mode

Ecos Consulting and the Power Tool Institute (PTI) and AHAM commented that BC ''no-load mode'' (included as an alternate name for ''standby mode'' in the ''Definitions'' section of the BC test procedure, section 2 of appendix Y) was confusing and Ecos suggested that it be renamed to ''no-battery mode'' to avoid confusion when testing BCs with wall adapters. (Pub. Mtg. Tr., No. 17 at pp. 74–76)

The amendments to the definition of BC standby mode proposed in the August 15, 2008, NOPR also referred to the BC mode in question as ''no load mode.'' 73 FR 48054, 48080. Nonetheless, DOE recognizes that using this term for BCs may cause unnecessary confusion. Furthermore, because the term ''no-load'' is used nowhere else in the existing BC test procedure in appendix Y, the EPA BC test procedure that it references, or the other amendments promulgated by today's final rule, there is no benefit to maintaining it in the definitions section. Therefore, DOE is renaming BC ''no-load mode'' to ''no-battery mode'' in the definition of BC standby mode. Today's final rule will insert this amended definition into section 2.l of appendix Y.

3. Clarification of the Definition of the On-Off Switch

As the above discussion illustrates, the definitions for standby and off modes that DOE proposed in the August 15, 2008, NOPR depend on the state of the on-off switch used to control the BC or EPS. User-activated on-off switches are not common in BCs and EPSs, and in their comments, stakeholders expressed some confusion regarding the meaning of the term ''on-off switch'' in the context of the standby and off mode definitions.

For example, products with integral batteries typically have some battery charging circuits inside the products, and it may be unclear which switches should be turned on for standby mode testing. Because the on-off switches of integral battery products control end-use product operation and not battery charging, testers have traditionally turned them off while testing the BC portion of the product, so that end-use product power consumption is not measured in addition to BC power consumption. But since the definition of standby mode proposed in the August 15, 2008, NOPR would reverse this longstanding practice by asking testers to turn all on-off switches on, adopting this change without further clarification could create confusion for testers.

Ecos commented that the on-off switch referenced in the definitions could be mistaken for an automatic switch that the user activates inadvertently when removing the battery. Ecos stressed that because DOE is introducing a new mode, it should define the on-off switch carefully to avoid confusion. (Pub. Mtg. Tr., No. 17 at pp. 80–81) Pacific Gas and Electric (PG&E) and the American Council for an Energy-Efficient Economy (ACEEE) also recommended that DOE provide a definition for a manual on-off switch and provided a sample definition. (PG&E & ACEEE, No. 21 at p. 2)

ADT Security Services, Sensormatic Electronics Corporation, and Tyco Safety Products Canada (all three are subsidiaries of Tyco Fire & Security and will be referred to throughout the document as ''Tyco'') sought clarification about which portions of the standby mode definition apply to products without on-off switches (Pub. Mtg. Tr., No. 17 at p. 73), while Australia commented that off mode should only be applicable to products with an appropriately defined on-off switch. (Australia, No. 20 at p. 2)

Despite these additional comments, DOE believes that the definitions, as proposed, are unambiguous: The off mode definitions are only applicable to BCs and EPSs with on-off switches, while the standby mode definitions are applicable to BCs and EPSs with or without on-off switches. The final clause of the standby mode definitions—''all switches are turned on''—applies only to BCs and EPSs with on-off switches. The only necessary clarification is an appropriately narrow definition of ''on-off switch'' to eliminate confusion with switches used to control end-use product function and automatic switches that are inadvertently activated by the user during battery or load disconnection. Therefore, in today's final rule, DOE is adopting the definition of ''manual on-off switch'' based on the one provided by PG&E and ACEEE and modifying the proposed definitions of standby and off mode to reference this new definition. This final rule inserts the definitions of manual on-off switch, off mode, and standby mode into sections 2.h, 2.k, and 2.l of appendix Y for BCs and sections 2.g, 2.p, and 2.t of appendix Z for EPSs.

B. Standby Mode and Off Mode Test Procedures

In the August 15, 2008, NOPR, DOE proposed two new subsections for standby and off mode measurement under the ''Test Measurement'' section of the BC test procedure (section 4 of appendix Y). 73 FR 48054, 48060. The amendments would also insert a section for off mode measurement under the ''Test Measurement'' section of the EPS test procedure (section 4 of appendix Z). 73 FR 48054, 48062–48063 (August 15, 2008).

The ''Test Measurement'' section of the EPS test procedure already included a test procedure for active mode and no-load mode measurement, which required testing of the EPS with ''any built-in switch in the UUT [unit under test] * * * in the 'on' position.'' (See section 5.a of EPA's ''Test Method for Calculating the Energy Efficiency of Single-Voltage External AC–DC and AC–AC Power Supplies,'' incorporated by reference in section 4 of appendix Z.) DOE leveraged the existing test procedure by proposing to define EPS standby mode as ''the condition in which the external power supply is in no-load mode and, for external power supplies with on-off switches, all switches are turned on.'' 73 FR 48054, 48062 (August 15, 2008), and to use the no-load test procedure as the standby mode test procedure. 73 FR 48054, 48063 (August 15, 2008).

Stakeholders commented on the following issues: (1) Specifying the duration of the BC standby and off mode tests; (2) clarifying the BC standby mode test for integral-battery products; (3) obviating EPS standby mode testing through end-use product testing; (4) modifying the stability requirement for measuring EPS energy consumption; (5) clarifying the assessment point for AC input power into the EPS; (6) clarifying the disconnection point for standby mode testing for systems with more than two enclosures; (7) specifying and reporting the shunt resistance value used during EPS measurement; and (8) excluding EPSs that do not operate in standby or no-load modes from testing under the standby mode test procedure.

1. Specifying the Duration of the BC Standby and Off Mode Tests

In the August 15, 2008, NOPR, DOE proposed a 1-hour duration for the BC standby and off mode energy

and the test procedure is also known as the ''CEC single-voltage EPS test procedure.'' (EPA, Test Method for Calculating the Energy Efficiency of Single-Voltage External AC–DC and AC–AC Power Supplies,'' p. 1. See *http://www.energystar.gov/ia/partners/prod_development/downloads/power_supplies/EPSupplyEffic_TestMethod_0804.pdf*).

consumption measurement. However, the EPA BC test procedure—incorporated by reference in the existing BC test procedure (sections 3 and 4 of appendix Y) and upon which these proposed amendments were based—requires a 12-hour test duration in certain circumstances. DOE raised this issue in the August 15, 2008 NOPR, soliciting stakeholder comments on the appropriate duration of the standby and off mode measurements. 73 FR 48054, 48062.

Ecos commented that the 12-hour option was too long and supported a test duration of 1 hour as necessary to ''achieve a measure of thermal stability'' and to ensure repeatability of measurements. (Pub. Mtg. Tr., No. 17 at p. 98) Hewlett-Packard (HP) and the Information Technology Industry Council (ITI), however, commented that a test duration of 1 hour is unnecessarily long and will result in higher testing costs than necessary. According to ITI, tests can be conducted in as little as 10 seconds using modern measurement equipment, and warmup could be performed prior to the beginning of the test. (HP, No. 30 at p. 2; ITI, No. 6 at p. 3, No. 28 at pp. 2–3; Pub. Mtg. Tr., No. 17 at pp. 36–37)

DOE is concerned with minimizing the testing burden on manufacturers. Notwithstanding, to be repeatable, a test procedure for measuring the energy consumption of consumer electronics must allow time for the components to warm up, a process that takes significantly longer than 10 seconds. Also, a severely shortened test procedure may not accurately measure the energy consumption of BCs with low-frequency pulsed operation,[10] an issue DOE raised in its August 15, 2008, NOPR.

Because of the need for a repeatable and accurate test procedure that accounts for both warm-up time and pulsed operation, DOE is adopting a 1-hour measurement period for both the BC standby mode and off mode measurements. This final rule inserts the measurement period requirement, and the remaining instructions for BC standby and off mode energy consumption measurement, into sections 4(c) and 4(d) of appendix Y.

2. Clarifying the BC Standby Mode Test for Integral-Battery Products

PTI and AHAM commented that care should be taken when specifying standby mode test conditions for integral-battery BCs. Testers should not attempt to disassemble BCs, but rather remove the entire product (with battery) from the charging cradle. (Pub. Mtg. Tr., No. 17 at pp. 15, 74–75, and 77) AHAM further commented that the definitions of standby and off mode should explicitly address integral-battery BCs. (AHAM, No. 10 at p. 4)

DOE acknowledges the commenters' concern about appropriately testing BCs where the charging circuitry and the battery are inside one enclosure and therefore cannot be separated during typical use. To ensure that testers do not disassemble the integral-battery consumer product during standby and off mode testing, DOE has inserted a clarification within both the standby and off mode test procedure amendments specifying that in the case of products with integral batteries, '' 'disconnecting the battery from the charger' will require disconnection of the end-use product'' itself and that standby mode or off mode ''power consumption will equal that of the cradle and/or adapter alone.'' This final rule inserts this clarification as well as a mention of plug blades—the metal prongs that connect a wall-mounted adapter to an outlet—as parts of the standby and off mode test procedure amendments, into sections 4(c) and 4(d) of appendix Y.

3. Obviating EPS Standby Mode Testing Through End-Use Product Testing

Microsoft commented that some end-use products powered by EPSs must already meet standby mode power consumption standards. Because an EPS-powered product is tested together with its EPS, standby mode testing of the EPS by itself would be ''redundant and possibly in conflict with the other requirements * * *'' (Pub. Mtg. Tr., No. 17 at p. 118)

Although there may be international standards that regulate the standby mode power consumption of end-use products powered by EPSs, these products (*e.g.*, video-game consoles, printers, networking equipment, etc.) are not covered under 10 CFR part 430 and therefore not subject to any mandatory testing or standards in the United States. Furthermore, even if these products were subject to standards under 10 CFR part 430, EISA 2007 states that a ''standard for external power supplies shall not constitute * * * [a] standard for the separate end-use product * * *'' Standards for the end-use product should not preclude standards (and, by extension, test procedures) for the EPS itself. Therefore, this final rule inserts an EPS standby mode test procedure into section 4(a)(i) of appendix Z.

4. Modifying the Stability Requirement for Measuring EPS Energy Consumption

In the August 15, 2008, NOPR, DOE proposed amending the EPS test procedure to accommodate the testing of multiple-voltage EPSs. Due to the large number of stakeholder comments received and the limited time for publication of this final rule, DOE has decided to postpone consideration of multiple-voltage amendments until it issues a NOPR focusing on a BC active mode test procedure in 2009. Nonetheless, DOE is including in today's final rule the stability requirement from the multiple-voltage EPS test procedure it proposed in August 15, 2008.

According to the EPA single-voltage EPS test procedure, an EPS can be deemed stable if the input ''power level does not drift by more than 5% from the maximum value observed'' over a 5-minute period. If an EPS meets this stability requirement, instantaneous measurements of input power, output voltage, and output current can be taken. Otherwise, the instantaneous measurements must be averaged over a subsequent 5-minute period. (EPA, ''Test Method for Calculating the Energy Efficiency of Single-Voltage External AC–DC and AC–AC Power Supplies,'' section 5.d) Given that elsewhere in the EPA test procedure, the power measurements uncertainty is required to be less than or equal to 2 percent, DOE proposed that the multiple-voltage EPS be deemed stable if the input power does not drift by more than 1 percent from the maximum value observed over a 5-minute period. 73 FR 48054, 48072 (August 15, 2008).

Stakeholders were generally receptive to this change in the stability criterion. Australia agreed with the proposed 1-percent stability requirement, but commented that samples should also be taken every second. (Australia, No. 20 at p. 3) Wahl Clipper Corporation (Wahl) suggested that DOE consider opening up the proposed 1-percent stability requirement at lower output powers, where 1 percent of input power may be insignificant. (Pub. Mtg. Tr., No. 17 at p. 166)

In the August 15, 2008, NOPR, DOE stated that it would consider making equivalent changes to the existing active and no-load mode test procedure for single-voltage EPSs based on departures from the stability criterion and other requirements, but declined to include these changes in today's final rule because of resistance to modifying the previously adopted and internationally accepted active and no-load mode EPS test procedure. (EPA, ''Test Method for

[10] Some BCs in standby mode operate periodically, consuming power in short pulses or bursts to lower overall energy consumption.

Calculating the Energy Efficiency of Single-Voltage External AC–DC and AC–AC Power Supplies'') Nonetheless, because of stakeholder support for a more stringent stability criterion and the lack of an internationally accepted off mode test procedure, DOE is including the 1-percent stability requirement in today's final rule as part of the new off mode test procedure for single-voltage EPSs.

Furthermore, today's rule addresses Wahl's comment by deeming EPS as stable at input powers less than 5 watts if the power does not vary by more than 50 milliwatts. DOE has tested EPSs with output parameters of 1 watt at 5 volts. At such low output powers, the output ripple and other noise may indeed surpass the 1-percent stability requirement, as Wahl claims. Therefore, today's final rule inserts the modified stability criterion, which was originally part of the proposed multiple-voltage EPS test procedure, into section 4(a)(ii) of appendix Z (single-voltage EPSs).

5. Clarifying the Assessment Point for AC Input Power Into the EPS

Regarding DOE's proposed test procedure for multiple-voltage EPSs, Texas Instruments (TI), PTI, and AHAM commented that DOE should specify on which side of the input power meter to measure the input voltage to ensure compliance with source voltage, total harmonic distortion, and other requirements. The input power meter can have an impact on those parameters. (Pub. Mtg. Tr., No. 17 at pp. 138–139 and 140).

The existing EPA single-voltage EPS test procedure already specifies that ''the input to the UUT [unit under test] shall be the specified voltage ±1% and the specified frequency ±1%'' (EPA, ''Test Method for Calculating the Energy Efficiency of Single-Voltage External AC–DC and AC–AC Power Supplies,'' section 4.d). Because the unit under test is defined as the EPS itself, the point of measurement is between the EPS and the input power meter. This is in accordance with longstanding testing practice, which dictates that testing conditions should be verified as close to the unit under test as possible. Today's final rule therefore does not insert any clarifications into appendix Z.

6. Clarifying the Disconnection Point for Standby Mode Testing for Systems With More Than Two Major Enclosures

In the August 15, 2008, NOPR, DOE proposed applying the active mode and no-load mode test procedure as its standby mode test procedure. PTI and AHAM commented that in systems with more than two major enclosures, the disconnection point for no-load mode can be unclear, possibly leading to a lack of repeatable test results. For instance, if one considers a wall adapter for a cradle-charged integral-battery BC (*e.g.*, a cordless telephone) as an EPS, it is unclear whether the disconnection point would be located between the wall adapter and cradle, or between the cradle and the integral-battery product. (Pub. Mtg. Tr., No. 17 at p. 112)

The August 15, 2008, NOPR instructed that if the multiple-enclosure, cradle-charger system is tested as a BC, the disconnection point during standby mode should be between the end-use product and the cradle, reflecting typical user behavior. 73 FR 48054, 48080. However, if the system is to be tested as an EPS, the disconnection point during standby mode should be between the wall adapter and the cradle. This interpretation is based on EISA 2007, which defines a Class A EPS as ''designed to convert line voltage AC input into lower voltage AC or DC output'' and ''contained in a separate physical enclosure from the end-use product. (42 U.S.C. 6291(36)(C)(i)(I) and (IV)) It is also consistent with other, non-portable EPS applications where only the wall adapter is subject to EPS testing. Accordingly, it is not necessary to insert any language clarifying this issue into appendices Y and Z.

7. Specifying and Reporting the Shunt Resistance Value Used During EPS Measurement

In response to DOE's proposed test procedures for BC and EPS standby and off mode measurement, TI commented that the shunt resistance used by the input power meter for current measurement could affect measured power values in some cases. (TI, No. 18 at pp. 5–6) TI also commented that the test procedure should require that a record of the maximum shunt resistance value be kept (perhaps by the manufacturer) so that the measurement can be repeated in the event of an audit. (TI, No. 18 at p. 6)

TI focused its analysis on an EPS without power-factor correction (PFC),[11] but did not demonstrate that shunt resistance will significantly affect the average measured standby or off mode power consumption of EPSs without PFC. TI also speculated, but did not demonstrate, that shunt resistance will significantly affect the power consumption of EPSs with PFC.

Because of a lack of evidence that shunt resistance will significantly affect the power consumption of EPSs with or without PFC, today's final rule does not require reporting the shunt resistance value used during BC and EPS standby or off mode measurement.

8. Excluding EPSs That Do Not Operate in Standby or No-Load Modes From Standby Mode Testing

AHAM and PTI voiced general agreement with DOE's proposed changes to the EISA 2007 standby and off mode definitions and proposed test procedures for these two modes (AHAM & PTI, No. 24 at pp. 1–2), while the Security Industry Association (SIA), Tyco, Uniden, the Consumer Electronics Association (CEA), Brink's, and the National Burglar and Fire Alarm Association (NBFAA) commented that DOE should exempt EPSs for security and telephony applications from being tested in no-load, standby,[12] and off modes. Such products never operate in these modes during actual use, and regulation would result in no energy savings, only added costs. (SIA, No. 7 at pp. 1–2, No. 22 at pp. 3–4; Pub. Mtg. Tr., No. 17 at pp. 19–21, 23–26, 42–43; Tyco, No. 4 at p. 2, No. 29 at pp. 3–4; CEA, No. 26 at p. 2; Brink's, No. 19 at p. 1; NBFAA, No. 32 at p. 2) ITI recommended that DOE consider allowing exclusions from the test procedure for some products. (Pub. Mtg. Tr., No. 17 at pp. 37–38)

Tyco further noted that surveillance equipment typically uses 60 Hz waveform from AC–AC EPS to synchronize images. These adapters may need to be modified if subject to EISA 2007 no-load mode requirements, affecting the utility of the systems. (Tyco, No. 29 at p. 4)

Tyco also commented that DOE previously found that standby mode does not apply to fluorescent lamps, which, like security systems, are either on or completely powered off. (Tyco, No. 4 at p. 2, No. 29 at pp. 4–6; Pub. Mtg. Tr., No. 17 at p. 25) Because standby mode does not apply, Tyco and SIA suggested instead that EPSs for security applications be marked ''IVa,'' where ''IV'' indicates the international efficiency level, while ''a'' indicates active mode only. (Tyco, No. 4 at p. 5; SIA, No. 7 at p. 3)

In the above comments, manufacturers in the security and telephony industries argue that EPSs for security applications be exempted from

[11] Manufacturers use PFC circuits to decrease resistive losses in the transmission and distribution wiring by correcting distortions in the shape of the EPS input current waveform.

[12] For EPSs, standby mode is no-load mode, except with all manual on-off switches turned on. However, because the no-load mode test procedure already requires that the EPS be tested with all manual on-off switches turned on, the test procedure for no-load mode and standby mode are the same.

testing under the off mode test procedure proposed in the August 15, 2008, NOPR. The commenters further argue that EPSs for security applications be exempted from testing under the new standby mode test procedure—*i.e.*, the existing no-load mode test procedure—so that they will not have to meet the EISA 2007 no-load standards effective on July 1, 2008.

Regarding exempting EPSs for security applications from testing under the off mode test procedure, the off mode definition proposed in the August 15, 2008, NOPR applies only to EPSs with manual on-off switches. Therefore, EPSs without manual on-off switches cannot be tested under the new off mode test procedure. 73 FR 48054, 48063 (August 15, 2008). According to the comments, EPSs for security applications do not have on-off switches, and therefore would not be tested under the off mode test procedure.

Regarding exempting EPSs for security applications from testing under the standby mode (*i.e.*, no-load mode) test procedure, it appears that manufacturers are also requesting that EPSs for home security and other applications that do not operate in standby or no-load modes be exempt. Although EISA 2007 gave DOE discretion in developing standby and off mode test procedures and definitions, (42 U.S.C. 6295(gg)(1)(B) and (2)(A)), the proposed standby mode test procedure is the existing no-load test procedure, and EISA 2007 does not allow DOE to modify the existing no-load definition and test procedure. More specifically, section 301 of EISA 2007 modified section 325 of EPCA to set a no-load mode power consumption standard (42 U.S.C. 6295(u)(3)(A)), and further modified section 323 to specify that DOE must continue using a test procedure based on the EPA's single-voltage EPS test procedure. (42 U.S.C. 6293(b)(17))

In addition to mandating an energy conservation standard for Class A EPSs, Congress provided exclusions from the standard for specific classes of EPSs (*e.g.*, EPSs for medical applications) by placing them outside of Class A. (42 U.S.C. 6291(36)(C)(ii)) If DOE were to modify the no-load test procedure to exempt EPSs for home security applications, DOE would in effect be granting an additional exclusion from the Class A standard, contravening EISA 2007. In the case of statutory standards, DOE does not have the authority to grant a request for a waiver from the test procedure or for an exception from the standard; under 10 CFR 1003.20(a), DOE can only grant exceptions from rules or regulations promulgated by DOE, not those mandated by Congress.

Therefore, today's final rule does not include any exemptions from the standby or off mode test procedures for EPSs that do not operate in these modes, such as those for home security or telephony applications. Instead, it inserts the definitions and test procedures for EPS standby and off modes that were discussed previously into appendix Z.

To test EPSs that do not operate in standby or no-load modes and that in some cases cannot be easily removed from their end-use products, manufacturers need to follow the DOE EPS test procedure. ''If the power supply is attached directly to the product that it is powering, [manufacturers must] cut the cord immediately adjacent to the powered product and connect output measurement probes at that point.'' (EPA, ''Test Method for Calculating the Energy Efficiency of Single-Voltage External AC–DC and AC–AC Power Supplies,'' section 5.a; incorporated by reference into section 4 of appendix Z)

C. Clarification of Test Procedure Definitions

In the August 15, 2008, NOPR, DOE proposed amending the EPS test procedure in appendix Z by modifying some existing definitions and adding new ones to improve clarity and consistency with industry standards. 73 FR 48054, 48068.

Following publication of the August 15, 2008, NOPR, stakeholders commented on the definitions DOE proposed. These commenters suggested that DOE provide additional clarification in the application of its test procedure. In particular, stakeholders submitted comments on the proposed (1) clarification of the definition of ''consumer product'' and (2) insertions of additional definitions identifying specific BC configurations.

1. Clarification of the Definition of ''Consumer Product''

PG&E and ACEEE commented that DOE should clarify the definition of ''consumer product'' along the lines presented during the September 2008 public meeting, where DOE indicated that consumer products are products that are to any significant extent distributed in commerce for use by individuals. Similarly, DOE indicated at the meeting that the only things that are not consumer products are those that are distributed only to commercial and industrial customers. (PG&E & ACEEE, No. 21 at p. 2)

Tyco and SIA commented that regardless of common application in residential homes, security, surveillance, and life-safety systems should not be considered consumer products. (Tyco, No. 29 at p. 2; SIA, No. 22 at p. 2) SIA added that residential users of security systems are ''simply the beneficiaries of this commercial service.'' (SIA, No. 22 at p. 2)

In response to the request for clarification, the term ''consumer product'' is defined as any energy-consuming product other than an automobile, ''which, to any significant extent, is distributed in commerce for personal use or consumption by individuals.'' (42 U.S.C. 6291(1)) This definition, which determines the scope of the EISA 2007 Class A EPS standards that came into effect on July 1, 2008, is consistent with the guidance DOE presented during the September 12, 2008, public meeting. DOE also indicated at the meeting that although it could not quantify the term ''to any significant extent,'' it was clear that any product that was only distributed in the commercial and industrial sectors was not a consumer product. (Pub. Mtg. Tr., No. 17 at pp. 85–90) This DOE clarification of the definition of consumer product is different from the interpretation that was received in comments from PG&E and ACEEE.

In response to the comments on the scope of the consumer product definition, DOE notes that cellular telephones are consumer products and security systems are no different. In both cases, consumers purchase the product with a service contract and pay monthly fees for the service, without which the product itself does not function. In both cases, the consumer also pays the energy cost associated with operating the product.

Therefore, in today's final rule, DOE is not including any additional clarification of the term ''consumer product'' or excluding any products from the test procedure on the grounds that they may not be consumer products.

2. Insertion of Additional Definitions Identifying Specific BC Configurations

In the modifications to the BC test procedure incorporating standby and off mode measurement presented in the August 15, 2008, NOPR, DOE relied on terms such as ''cradle'' and ''detachable'' to clarify the application of the proposed standby and off mode definitions to various configurations of BCs. In comments submitted following publication of the NOPR, PTI, and AHAM recommended that DOE include definitions for integral, detachable, and

cradle-type BCs. (Pub. Mtg. Tr., No. 17 at p. 15) They further noted that these definitions should be consistent with those proposed for inclusion in the ''Energy Efficiency Battery Charger System Test Procedure'' currently in development by the California Energy Commission (CEC). (PTI, No. 17 at p. 15; AHAM & PTI, No. 24 at pp. 2 and 4–5; AHAM, No. 10 at p. 4)

Section 2 of appendix Y already contains definitions of detachable and integral batteries, and DOE believes the existing definitions provide sufficient clarity for these two battery configurations. However, to further clarify the application of standby and off mode, DOE is including the following definition of ''cradle'' in today's final rule:

Cradle is an electrical interface between an integral battery product and the rest of the battery charger designed to hold the product between uses.

This definition is consistent with that included by the CEC in its BC test procedure. Today's final rule inserts this definition in section 2.f of appendix Y.

D. Switch-Selectable Single-Voltage EPSs

In the August 15, 2008, NOPR, DOE proposed language clarifying the testing required of switch-selectable single-voltage EPSs. These devices have a single output but incorporate a switch that enables users to vary the voltage at that output. Because these EPSs have a single output, they fall within the scope of EISA 2007 Class A standards, but the existing EPS test procedure is unclear at which setting they should be tested. Therefore, DOE proposed that a switch-selectable EPS be tested at both its lowest and highest selectable output voltage.

In written comments, Australia agreed with the DOE proposal to test switch-selectable EPSs at their highest and lowest output voltages. (Australia, No. 20 at p. 3) Because no stakeholders opposed this proposal, DOE is including requirements that switch-selectable EPSs have their active-mode efficiency, standby mode power consumption, and off mode power consumption tested at their highest and lowest voltages in today's final rule. Today's final rule will insert these requirements into sections 4(a)(i) and 4(a)(ii) of appendix Z and into the certification requirements in 10 CFR 430.62(a)(4)(xxiii) and (xxiv). The certification requirements are discussed further in section III.E.

E. Certification Requirements for EPSs

Manufacturers of covered and regulated products must file testing documentation with DOE and certify that the products they are distributing into commerce in the United States comply with Federal energy conservation standards. Because EISA 2007 modified EPCA by establishing standards for Class A EPSs, DOE proposed in its August 15, 2008, NOPR to modify the certification requirements to cover the submission of data on EPSs. 73 FR 48054, 48072. These certification requirements work in concert with the EPS test procedure in appendix Z and the sampling plan proposed in the July 25, 2006, NOPR, 71 FR 42178, 42204, instructing manufacturers how to demonstrate compliance with EISA 2007 standards for Class A EPSs.[13]

In the August 15, 2008, NOPR, DOE included requirements that for each ''basic model'' of EPS, manufacturers provide the active-mode efficiency and no-load-mode power consumption as well as general information about that basic model. However, because of the extent of customization within the EPS industry and the expected burden associated with certifying the compliance of each basic model, DOE noted that it was also considering certification requirements based on design families. The ENERGY STAR program uses such a structure for EPSs. Manufacturers need only submit data on the lowest- and highest-voltage unit of each design family, which is a collection of basic models that share the same output power and fundamental design but may have different output voltages. Despite this reduced requirement, manufacturers would nonetheless be responsible for the compliance of all basic models within the design family.

Following publication of the August 15, 2008, NOPR, stakeholders commented on the option of certifying compliance by design family. Stakeholders raised the following issues: (1) The data reporting method; (2) clarification of ''certification'' versus ''declaration''; (3) exemption from certification requirements of products that had qualified under the ENERGY STAR program; (4) the data necessary to certify compliance; (5) reporting of additional data absent a complete nameplate; and (6) definitions of ''basic model'' and ''design family.'' These issues are discussed below.

1. Data Reporting Method

ITI commented that requiring manufacturers to report efficiency of EPSs may be more burdensome than maintaining readily available records at their facilities and stated that Congress did not mandate reporting requirements as part of EISA 2007. (ITI, No. 6 at p. 2, No. 28 at pp. 1–2; Pub. Mtg. Tr., No. 17 at pp. 34–35 and 209) However, Ecos responded that the DOE reporting requirements are no more burdensome than the requirements under the voluntary ENERGY STAR program and mandatory State efficiency programs (Pub. Mtg. Tr., No. 17 at p. 211)

AHAM commented that reporting instills in manufacturers a realization of their compliance obligations and that there are mechanisms for easing the burdens of compliance, such as centralized submissions of data to several agencies through a trade association. (Pub. Mtg. Tr., No. 17 at pp. 213–214) AHAM and PTI also expressed their preference for the family approach to reporting. (AHAM & PTI, No. 24 at p. 5)

While the reporting requirements proposed in the August 15, 2008, NOPR are typical of the requirements of other products covered by 10 CFR part 430, allowing manufacturers to certify results for only the lowest- and highest-voltage models within a design family may be the least burdensome approach for achieving the objectives of certification. Such an approach would also be consistent with the approach of other EPS efficiency programs, such as ENERGY STAR.

Based on these considerations and the comments provided by stakeholders, DOE is including in this final rule a requirement that manufacturers certify the compliance of design families, supported by submissions of active-mode efficiency and no-load power consumption data for the highest- and lowest-voltage models within the families. Today's final rule inserts these requirements into 10 CFR 430.62(a)(4)(xxiii).

2. Clarification of ''Certification'' Versus ''Declaration''

During the September 2008 public meeting, Microsoft recommended that DOE use the term ''declaration'' when referring to claims made by a manufacturer and ''certification'' when an independent third party verifies such claims, as is common industry practice. (Pub. Mtg. Tr., No. 17 at pp. 201–202)

Despite industry custom, the term ''certification'' is used unambiguously throughout subpart F of 10 CFR part 430 to refer to manufacturer self-certification of their products. For instance, paragraph (a)(1) of 10 CFR 430.62 states that ''each manufacturer * * * shall certify by means of a compliance

[13] Because the sampling requirements proposed in the July 25, 2006, NOPR have not yet been finalized, manufacturers cannot and need not submit certification reports for EPSs at this time.

statement and certification report,'' which is to be ''signed by the company official submitting the statement.'' Paragraph (e), ''Third party representation,'' of the same section permits, but does not require, manufacturers to use a third party to submit compliance statements or certification data on the manufacturer's behalf. Because the term ''certification'' is used unambiguously throughout 10 CFR part 430, DOE is not changing ''certification'' to ''declaration'' in today's final rule.

3. Exemption From Certification Requirements of Products that Previously Qualified Under the ENERGY STAR Program

ITI recommended that DOE deem ENERGY STAR-qualified EPSs compliant with EISA 2007 requirements and not require manufacturers to certify their compliance in a separate submission to DOE. (ITI, No. 6 at pp. 4–5, No. 28 at p. 2)

Although DOE is sensitive to the reporting burden on manufacturers, it requires that the compliance of products subject to energy conservation standards under 10 CFR part 430 be certified and reported to DOE, regardless of whether the products have qualified under the requirements of the ENERGY STAR program. 10 CFR 430.62(a). Because EPSs are covered products under 10 CFR 430.2 and subject to standards included in EISA 2007 by Congress, (42 U.S.C. 6295(u)(3)(A)), manufacturers will have to demonstrate the compliance of their EPSs [14] according to 10 CFR 430.62.

Furthermore, the sampling plans of DOE (presented in the July 25, 2006, NOPR) and ENERGY STAR will most likely differ. This could impact the compliance of models when the differences between ENERGY STAR guidelines and EISA 2007 standards are small enough (or nonexistent, as for the no-load power consumption for AC–AC EPSs) and manufacturing variations lead to significant differences in EPS efficiency or no-load power from one unit to the next of a single model.

ENERGY STAR requires manufacturers to test three randomly chosen units of the same model and self-certify the compliance of all three units for the model to qualify. (EPA, ''ENERGY STAR Program Requirements for Single Voltage External AC–DC and AC–AC Power Supplies: Eligibility Criteria,'' Version 2.0, sections 4.B and 4.E). In contrast in the July 25, 2006, NOPR, DOE proposed that ''a sample of sufficient size shall be selected at random and tested to ensure that * * * (2) Any represented value of the estimated energy consumption of a basic model for which consumers would favor higher values [*e.g.*, active mode efficiency] shall be no greater than the lower of: (i) The mean of the sample, or (ii) The lower 97.5 percent confidence limit of the true mean divided by 0.95.'' 71 FR 42178, 42204.

If adopted by DOE in a final rule, this different sampling requirement could result in manufacturers certifying lower active mode efficiency and higher no-load power consumption results—for the same model—to DOE than to ENERGY STAR. Therefore, today's final rule does not exempt ENERGY STAR-qualified EPSs from DOE certification requirements.

4. Data Necessary to Certify Compliance

Ecos commented that the August 15, 2008, NOPR was unclear whether manufacturers should, for each unit tested, submit to DOE the efficiency values measured at each of the four active mode loading conditions (25 percent, 50 percent, 75 percent, and 100 percent of nameplate output current) or only submit their average. (Pub. Mtg. Tr., No. 17 at p. 203) PG&E and ACEEE commented that manufacturers should submit to DOE the efficiency values measured at each loading condition, and not just the average, as the additional detail may aid DOE in developing future standards. (PG&E & ACEEE, No. 21 at p. 4)

However, ITI commented that data submission and certification are burdensome and requested that DOE not require data submission out of convenience and consider ways of minimizing the manufacturer reporting burden. (ITI, No. 28 at pp. 1–2) HP suggested that DOE allow manufacturers to self-test and certify without requiring extensive reporting of test results. (HP, No. 30 at p. 2)

There does not appear to be a significant regulatory or analytical benefit to systematically collecting intermediate efficiency values at each of the loading conditions in addition to their average. Therefore, today's final rule requires that only average active-mode efficiency be reported.[15]

Nonetheless, manufacturers ''shall establish, maintain, and retain the records of the underlying test data'' (*e.g.*, the efficiency values measured at each active-mode loading condition) and make them available to DOE upon request. 10 CFR 430.62(d).

Manufacturers shall report the average active-mode efficiency as a percentage and the no-load mode power consumption in watts. Today's final rule inserts this requirement into 10 CFR 430.62(c)(4)(xxiii) for the highest- and lowest-voltage models in a design family (discussed further in section III.E.6) and into 430.62(c)(4)(xxiv) for the highest and lowest selectable output voltage for each switch-selectable EPS model. Separate active-mode efficiency and no-load mode power consumption metrics will be reported for each of the units tested [16] and, in the case of the switch-selectable models, for each of the output voltage settings.

5. Reporting of Data Absent a Complete Nameplate

During the September 2008 public meeting, DOE noted that some EPSs (*e.g.*, high-power EPSs with output power greater than 250 watts) have nameplates that do not list all output parameters necessary to calculate the loading conditions specified in the test procedure in appendix Z.

Microsoft commented that dedicated-use EPSs, which are intended for operation only with a particular end-use product load, may be another category of EPSs without output power, current, or voltage information on the nameplate. For these products, the output power may be listed on the end-use product. (Pub. Mtg. Tr., No. 17 at p. 161) As an alternative, Ecos, PG&E, and ACEEE commented that DOE could require manufacturers to provide all required information on the product label. (Pub. Mtg. Tr., No. 17 at p. 162; PG&E & ACEEE, No. 21 at p. 3), while AHAM suggested direct reporting of the ratings to DOE as a way to forgo an additional labeling requirement. (Pub. Mtg. Tr., No. 17 at pp. 162–163)

In today's final rule, DOE is adopting the solution proposed by AHAM and amending the certification requirements to require reporting of the output power for all EPSs and of the output current for EPSs that omit it from the nameplate.

Because the EISA 2007 standard levels depend on output power, (42 U.S.C. 6295(u)(3)(A)), DOE must require

[14] Manufacturers are not required to certify compliance with EISA 2007 standards to DOE until the sampling requirements proposed in the July 25, 2006, NOPR are finalized. 71 FR 72178, 72204. However, manufacturers are required to be in compliance with the standards in the meantime.

[15] Section 5.e of the EPA single-voltage EPS test procedure requires that ''Average efficiency shall also be calculated and reported as the arithmetic mean of the efficiency values calculated at Test Conditions 1, 2, 3, and 4 in Table 1,'' where the ''Test Conditions'' correspond to 100 percent, 75 percent, 50 percent, and 25 percent of nameplate output current. (EPA, Test Method for Calculating the Energy Efficiency of Single-Voltage External AC–DC and AC–AC Power Supplies,'' p. 9).

[16] Sampling requirements specifying the selection of units to be tested were proposed in the July 25, 2006, NOPR, but have not yet been finalized.

manufacturers to report the active mode efficiency, no-load power consumption (see section III.E.4), and output power for all EPSs to verify compliance with standards. This requirement is consistent with the existing paragraphs under 430.62(a)(4), which require manufacturers to report the capacity of covered products in cases where the standard levels depend on capacity.

However, the EISA 2007 standard levels do not depend on the output current, which is only necessary for calculating the active mode loading conditions [17] required by the test procedure. In most cases the output current can therefore be read off the nameplate of the EPS being tested; however, DOE does not require manufacturers to list the output current on the EPS nameplate and cannot rely on its presence. Therefore, DOE is requiring manufacturers to report output current in cases where it is absent from the nameplate.

Today's final rule also amends the definitions of the nameplate power and current (section 2 of appendix Z) to refer to this manufacturer-supplied output information, which means that the test procedure can still be used if these parameters are absent from the nameplate.

Although manufacturers would submit this output parameter information directly to DOE, external parties wishing to verify manufacturer tests could obtain it by visiting the Resource Room of the Building Technologies Program [18] or requesting it directly from manufacturers. These modifications will be inserted into sections (a)(4)(xxiii) and (xxiv) of 10 CFR 430.62 and sections 2.l and 2.m of appendix Z.

6. Definitions of ''Basic Model'' and ''Design Family''

In the August 15, 2008, NOPR, DOE noted that it was considering defining EPS design families as groups of basic models that share output power and ''fundamental electrical circuit design,'' but that vary by voltage. 73 FR 48054, 48074. (See sections II.D and III.E) Ecos, PG&E, and ACEEE commented that DOE should also specify design families on the basis of output cord resistance, not cord length, as length is not the only parameter that determines cord resistance and the resultant losses. (Pub. Mtg. Tr., No. 17 at p. 200; PG&E & ACEEE, No. 21 at p. 4).

Lacking additional stakeholder comments, today's final rule contains a definition of ''external power supply design family'' that is consistent with the discussion in the August 15, 2008, NOPR, 73 FR 48054, 48074, and which incorporates the above guidance on cord resistance:

External power supply design family means a set of external power supply basic models, produced by the same manufacturer, which share the same circuit layout, output power, and output cord resistance, but differ in output voltage.

Today's final rule will insert the above definition into section 2, ''Definitions,'' of 10 CFR part 430. Furthermore, today's final rule also requires that the compliance statement covering each design family be supported with test results for the highest- and lowest-voltage models within the design family. These requirements will be inserted into sections (a)(4)(xxiii) and (xxiv) of 10 CFR 430.62. Figure III.1 and Figure III.2 present suggested formats for the compliance statement and certification report that manufacturers can use to certify the compliance of EPS design families, based on the generic format found in appendix A to subpart F of part 430.

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[17] Section 5.b of the EPA single-voltage EPS test procedure requires that active mode efficiency be measured at 100 percent, 75 percent, 50 percent, and 25 percent of nameplate output current. (EPA, ''Test Method for Calculating the Energy Efficiency of Single-Voltage External AC–DC and AC–AC Power Supplies,'' pp. 6–7).

[18] The U.S. Department of Energy, Resource Room of the Building Technologies Program, is located at 950 L'Enfant Plaza, SW., Suite 600, Washington, DC, and is open between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards at (202) 586–2945 to arrange a visit.

EPS DESIGN FAMILY COMPLIANCE STATEMENT

Design Family:_____
Manufacturer's or Private Labeler's Name and Address:
_____
_____
_____

This compliance statement and all certification reports submitted are in accordance with 10 CFR Part 430 (Energy or Water Conservation Program for Consumer Products) and the Energy Policy and Conservation Act, as amended. The compliance statement is signed by a responsible official of the above named company. The design family and basic model(s) listed in certification reports comply with the applicable energy conservation standard. All testing on which the certification reports are based was conducted in conformance with applicable test requirements prescribed in 10 CFR Part 430 Subpart B.

All information reported in the certification report(s) is true, accurate, and complete. The company is aware of the penalties associated with violations of the Act and the regulations thereunder, and is also aware of the provisions contained in 18 U.S.C. 1001, which prohibits knowingly making false statements to the Federal Government.

Name of Company Official:_____
Signature:_____
Title:_____
Firm or Organization:_____
Address:_____
Telephone Number:_____
Facsimile Number:_____
Date:_____

Third Party Representation (if applicable)

For certification reports prepared and submitted by a third party organization under the provisions of Sec. 430.62 of 10 CFR Part 430 the company official who authorized said third party representation is:

Name:_____
Title:_____
Address:_____
Telephone Number:_____
FacsimileNumber:_____

The third party organization submitting the certification report on behalf of the company is:

Third Party Organization:_____
Address:_____
Telephone Number:_____
Facsimile Number:_____

Figure III.1. Suggested Compliance Statement for EPS Design Families

EPS DESIGN FAMILY CERTIFICATION REPORT

Design Family:_____
Manufacturer:_____
Private Labeler (if applicable):_____
Name:_____
Title:_____
Address:_____
Telephone Number:_____
Facsimile Number:_____
Date:_____

For Existing, New, or Modified Design Families:
Provide specific product information for each design family, including the manufacturer's model numbers and the test results of the highest- and lowest-voltage models within the external power supply design family. The information required in Sec. 430.62(a)(4)(i) through (a)(4)(xvii) is included as data fields below.

Model numbers included within the design family (use additional sheets if necessary):
_____
_____
_____

Highest-Voltage Model Within the Design Family or Highest-Voltage Setting of Switch-Selectable EPS:
Manufacturer's Model Number:_____
Average Active-Mode Efficiency (%):_____
No-Load Mode Power Consumption (W):_____
Nameplate Output Power (W):_____
Nameplate Output Current (if missing from nameplate) (A):_____

Lowest-Voltage Model Within the Design Family or Lowest-Voltage Setting of Switch-Selectable EPS:
Manufacturer's Model Number:_____
Average Active-Mode Efficiency (%):_____
No-Load Mode Power Consumption (W):_____
Nameplate Output Power (W):_____
Nameplate Output Current (if missing from nameplate) (A):_____

For Discontinued Models:
Provide manufacturer's model number(s):
_____
_____

Figure III.2. Suggested Certification Report Format for EPS Design Families

BILLING CODE 6450–01–C

Manufacturers wishing to certify the compliance of individual basic models should treat them as a design family With one model.

IV. Effect of Test Procedure Revisions on Compliance with Standards

In amending a test procedure, section 323(e) of EPCA directs DOE to determine to what extent, if any, the test procedure would alter the measured energy efficiency of the covered product. If the amended test procedure alters the measured efficiency, the Secretary must amend the applicable energy conservation standard to the extent the amended test procedure changes the energy efficiency of products that minimally comply with the existing standard. (42 U.S.C. 6293(e)) On July 1, 2008, the energy conservation standards contained in section 301(c) of EISA 2007 regarding the active mode efficiency and no-load mode power consumption of Class A EPSs became effective. However, the test procedure amendments included in this final rule do not affect compliance with these standards because they do not substantively change the measurement of active mode efficiency and no-load mode power consumption.

Of the five amendments discussed in section III, only those pertaining to (1) standby mode test procedures; (2) test

procedure definitions; and (3) switch-selectable EPS testing could potentially affect compliance with standards. Although this final rule amends the current active and no-load mode test procedure so that it pertains to the ''measurement of standby mode (also no-load mode) energy consumption and active mode efficiency,'' there are no substantive changes that would impact testing in active or no-load mode. Similarly, although the rule amends and adds to the test procedure definitions, the amendments codify generally accepted industry definitions without impacting the active or no-load mode measurement results.

Finally, although today's final rule amends the EPS test procedure to specify how switch-selectable EPSs should be tested, these amendments do not affect standards compliance either. Whereas under the existing test procedure manufacturers would test switch-selectable EPSs at each output voltage setting, under the amended test procedure, as under the ENERGY STAR program, manufacturers need only test these EPSs at the highest- and lowest-voltage settings. Nonetheless, a switch-selectable EPS that was in compliance under the existing test procedure will be in compliance under the amended test procedure because the efficiencies measured at all the output voltage settings of a switch-selectable EPS will lie between those measured at the highest- and lowest-voltage settings. In other words, a switch-selectable EPS that was previously compliant when tested at each of its output voltage settings will be deemed compliant at either its highest- or lowest-voltage setting. Therefore, today's amendment does not impact compliance with EISA 2007 EPS standards.

Because none of the amendments contained in today's rule change the measurement of active mode efficiency and no-load mode power consumption, the rule has no impact on compliance with the EISA 2007 EPS standards. There are no existing standards for BCs. There were no stakeholder comments on the effects of test procedure amendments on compliance with standards.

V. Procedural Requirements

A. Executive Order 12866

Today's regulatory action is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (October 4, 1993). Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB).

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the Department certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site, *http://www.gc.doe.gov.*

DOE reviewed today's final rule under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. DOE tentatively certified in the August 15, 2008, NOPR that the proposed rule would not have a significant impact on a substantial number of small entities. 73 FR 48054, 48077. DOE received one comment from Power Technology specifically regarding small business impacts. (Power Technology, No. 5 at p. 1). While it seems that Power Technology does not manufacture EPSs for consumer products, and is therefore not directly affected by this rulemaking, DOE would like to address the possible concerns of affected parties. While the EPS standards that became effective on July 1, 2008 were Congressionally mandated, today's rule mitigates their impact by requiring certification according to the design family approach. Because of the substantially lower burden resulting from this approach, DOE reaffirms that this rule will have no significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

This rulemaking imposes no new information or recordkeeping requirements. See August 15, 2008, NOPR, 73 FR 48054, 48078. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. National Environmental Policy Act

This rule is covered under the Categorical Exclusion found in DOE's National Environmental Policy Act regulations. This rule amends an existing rule without changing its environmental effect, and, therefore, is covered by the Categorical Exclusion A5 found in appendix A to subpart D, 10 CFR part 1021. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 10, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The final rule 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. Executive Order 13132 requires no further action.

F. Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. Regarding the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of

them. DOE has completed the required review and determined that, to the extent permitted by law, this rule meets the relevant standards of Executive Order 12988.

G. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) (UMRA) generally requires Federal agencies to examine closely the impacts of regulatory actions on State, local, and Tribal governments. Subsection 101(5) of title I of that law defines a Federal intergovernmental mandate to include any regulation that would impose upon State, local, or Tribal governments an enforceable duty, except a condition of Federal assistance or a duty arising from participating in a voluntary federal program. Title II of UMRA requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. For proposed regulatory actions likely to result in a rule that may cause expenditures by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish estimates of the resulting costs, benefits, and other effects on the national economy. Section 204 of UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate.'' On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA (62 FR 12820) (also available at *http://www.gc.doe.gov*). Today's final rule would modify the current test procedures for BCs and EPSs. Today's rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure by State, local, and Tribal governments, or by the private sector, of $100 million or more in any year. Accordingly, no assessment or analysis is required under the Unfunded Mandates Reform Act of 1995.

H. Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. Today's rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is unnecessary to prepare a Family Policymaking Assessment.

I. Executive Order 12630

Pursuant to Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (March 15, 1988), DOE has determined that this rule would not result in any takings that might require compensation under the Fifth Amendment to the United States Constitution.

J. Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's notice under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. Today's regulatory action is not a significant regulatory action under Executive Order 12866 or any successor order; would not have a significant adverse effect on the supply, distribution, or use of energy; and has not been designated by the Administrator of OIRA as a significant energy action. Therefore, it is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91), DOE must comply with all laws applicable to the former Federal Energy Administration, including section 32 of the Federal Energy Administration Act of 1974 (Pub. L. 93–275), as amended by the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95–70). (15 U.S.C. 788) Section 32 provides that where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. Section 32(c) also requires DOE to consult with the Department of Justice and the Federal Trade Commission (FTC) concerning the impact of commercial or industry standards on competition.

Certain of the amendments and revisions in this final rule incorporate testing methods contained in the following commercial standards: (1) CEC 2007 Appliance Efficiency Regulations, section 1604(u)(1), which directly cites ''Test Method for Calculating the Energy Efficiency of Single-Voltage External Ac-Dc and Ac-Ac Power Supplies''; (2) IEEE Standard 1515–2000, ''IEEE Recommended Practice for Electronic Power Subsystems: Parameter Definitions, Test Conditions, and Test Methods''; and (3) IEC Standard 62301 ''Household electrical appliances—Measurement of standby power.'' As stated in the August 15, 2008, NOPR, DOE has evaluated these standards and is unable to conclude whether they fully comply with the requirements of section 32(b) of the Federal Energy Administration Act, (*i.e.*, that they were developed in a manner that fully provides for public participation, comment, and review). 73 FR 48054, 48079. DOE has consulted with the Attorney General and the Chairman of the FTC concerning the impact on competition of requiring manufacturers to use the test methods contained in these standards, and neither recommended against incorporation of these standards.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of today's rule before its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 801(2).

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

Issued in Washington, DC, on March 11, 2009.

Rita L. Wells,

Acting Deputy Assistant Secretary for Business Administration, Energy Efficiency and Renewable Energy.

■ For the reasons stated in the preamble, part 430 of chapter II of title 10, Code of Federal Regulations, is amended as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 2. In § 430.2 add, in alphabetical order, a definition for ''external power supply design family,'' to read as follows:

§ 430.2 Definitions.

* * * * *

External power supply design family means a set of external power supply basic models, produced by the same manufacturer, which share the same circuit layout, output power, and output cord resistance, but differ in output voltage.

* * * * *

■ 3. In § 430.23 revise paragraphs (aa) and (bb) to read as follows:

§ 430.23 Test procedures for the measurement of energy and water consumption.

* * * * *

(aa) *Battery Chargers.* The energy consumption of a battery charger, expressed as the nonactive energy ratio, shall be measured in accordance with section 4(a) of appendix Y of this subpart. The energy consumption of a battery charger in standby mode and off mode shall be measured in accordance with sections 4(c) and 4(d), respectively, of appendix Y of this subpart.

(bb) *External Power Supplies.* The energy consumption of an external power supply, including active-mode efficiency expressed as a percentage and the no-load, off, and standby mode energy consumption levels expressed in watts, shall be measured in accordance with section 4 of appendix Z of this subpart.

■ 4. Amend appendix Y to subpart B of part 430 by:

■ a. Redesignating paragraphs 2.f, 2.g, 2.h, and 2.i as 2.g, 2.i, 2j, and 2.l, respectively;

■ b. Adding new paragraphs 2.f, 2.h, 2.k;

■ c. Revising newly redesignated paragraph 2.l;

■ d. Add new paragraphs 4(c) and 4(d);

The revisions and additions read as follows:

Appendix Y to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Battery Chargers

* * * * *

2. *Definitions:*

* * * * *

f. *Cradle* is an electrical interface between an integral battery product and the rest of the battery charger designed to hold the product between uses.

* * * * *

h. *Manual on-off switch* is a switch activated by the user to control power reaching the device. This term does not apply to any mechanical, optical, or electronic switches that automatically disconnect mains power from the device when a battery is removed from a cradle or charging base or, for products with non-detachable batteries, that control power to the product itself.

* * * * *

k. *Off mode* is the condition, applicable only to units with manual on-off switches, in which the battery charger is (1) connected to the main electricity supply; (2) is not connected to the battery; and (3) all manual on-off switches are turned off.

l. *Standby mode* (also *no-battery mode*) means the condition in which (1) the battery charger is connected to the main electricity supply; (2) the battery is not connected to the charger; and (3) for battery chargers with manual on-off switches, all such switches are turned on.

* * * * *

4. *Test Measurement:*

* * * * *

(c)(1) Standby Mode Energy Consumption Measurement. Conduct a measurement of standby power consumption while the battery charger is connected to the power source. Disconnect the battery from the charger and record the power (*i.e.*, watts) consumed as the time series integral of the power consumed over a 1-hour test period, divided by the period of measurement. If the battery charger has manual on-off switches, all must be turned on for the duration of the standby mode test.

(2) Standby mode may also apply to products with integral batteries. If the product uses a cradle and/or adapter for power conversion and charging, then ''disconnecting the battery from the charger'' will require disconnection of the end-use product, which contains the batteries. The other enclosures of the battery charging system will remain connected to the main electricity supply, and standby mode power consumption will equal that of the cradle and/or adapter alone.

(3) If the product also contains integrated power conversion and charging circuitry and is powered through a detachable AC power cord, then only the cord will remain connected to mains, and standby mode power consumption will equal that of the AC power cord (*i.e.*, zero watts).

(4) Finally, if the product contains integrated power conversion and charging circuitry but is powered through a non-detachable AC power cord or plug blades, then no part of the system will remain connected to mains, and standby mode measurement is not applicable.

(d)(1) Off Mode Energy Consumption Measurement. If the battery charger has manual on-off switches, record a measurement of off mode energy consumption while the battery charger is connected to the power source. Remove the battery from the charger and record the power (*i.e.*, watts) consumed as the time series integral of the power consumed over a 1-hour test period, divided by the period of measurement, with all manual on-off switches turned off. If the battery charger does not have manual on-off switches, record that the off mode measurement is not applicable to this product.

(2) Off mode may also apply to products with integral batteries. If the product uses a cradle and/or adapter for power conversion and charging, then ''disconnecting the battery from the charger'' will require disconnection of the end-use product, which contains the batteries. The other enclosures of the battery charging system will remain connected to the main electricity supply, and off mode power consumption will equal that of the cradle and/or adapter alone.

(3) If the product also contains integrated power conversion and charging circuitry and is powered through a detachable AC power cord, then only the cord will remain connected to mains, and off mode power consumption will equal that of the AC power cord (*i.e.*, zero watts).

(4) Finally, if the product contains integrated power conversion and charging circuitry but is powered through a non-detachable AC power cord or plug blades, then no part of the system will remain connected to mains, and off mode measurement is not applicable.

■ 5. Amend Appendix Z to subpart B of part 430 by:

■ a. Revising paragraphs 1 and 2;

■ b. Adding, to paragraph 3, after the introductory heading ''3. Test Apparatus and General Instructions'' the paragraph designation ''(a) Single-Voltage External Power Supply'';

■ c. Adding a new paragraph 3(b); and

■ d. Revising paragraph 4.

The revisions and additions read as follows:

Appendix Z to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of External Power Supplies

1. *Scope*: This appendix covers the test requirements used to measure energy consumption of external power supplies.

2. *Definitions*: The following definitions are for the purposes of understanding terminology associated with the test method for measuring external power supply energy consumption. For clarity on any other terminology used in the test method, please refer to IEC Standard 60050 or IEEE Standard 100. (Reference for guidance only, see § 430.4.)

a. *Active mode* means the mode of operation when the external power supply is connected to the main electricity supply and the output is (or ''all outputs are'' for a multiple-voltage external power supply) connected to a load (or ''loads'' for a multiple-voltage external power supply).

b. *Active mode efficiency* is the ratio, expressed as a percentage, of the total real output power produced by a power supply to the real input power required to produce it. (Reference for guidance only, see IEEE Standard 1515–2000, 4.3.1.1, § 430.4.)

c. *Active power (also real power)* (P) means the root-mean-square (RMS) value of the instantaneous power taken over one period. (Reference for guidance only, see IEEE Standard 1515–2000, § 430.4.)

d. *Ambient temperature* means the temperature of the ambient air immediately surrounding the unit under test.

e. *Apparent power* (S) is the product of RMS voltage and RMS current (VA).

f. *Instantaneous power* means the product of the instantaneous voltage and instantaneous current at a port (the terminal pair of a load).

g. *Manual on-off switch* is a switch activated by the user to control power reaching the device. This term does not apply to any mechanical, optical, or electronic switches that automatically disconnect mains power from the device when a load is disconnected from the device, or that control power to the load itself.

h. *Minimum output current* means the minimum current that must be drawn from an output bus for an external power supply to operate within its specifications.

i. *Multiple-voltage external power supply* means an external power supply that is designed to convert line voltage AC input into more than one simultaneous lower-voltage output.

j. *Nameplate input frequency* means the AC input frequency of the power supply as specified on the manufacturer's label on the power supply housing.

k. *Nameplate input voltage* means the AC input voltage of the power supply as specified on the manufacturer's label on the power supply housing.

l. *Nameplate output current* means the current output of the power supply as specified on the manufacturer's label on the power supply housing (either DC or AC) or, if absent from the housing, as provided by the manufacturer.

m. *Nameplate output power* means the power output of the power supply as specified on the manufacturer's label on the power supply housing or, if absent from the housing, as specified in documentation provided by the manufacturer.

n. *Nameplate output voltage* means the voltage output of the power supply as specified on the manufacturer's label on the power supply housing (either DC or AC).

o. *No-load mode* means the mode of operation when an external power supply is connected to the main electricity supply and the output is (or ''all outputs are'' for a multiple-voltage external power supply) not connected to a load (or ''loads'' for a multiple-voltage external power supply).

p. *Off mode* is the condition, applicable only to units with manual on-off switches, in which the external power supply is (1) connected to the main electricity supply; (2) the output is not connected to any load; and (3) all manual on-off switches are turned off.

q. *Output bus* means any of the outputs of the power supply to which loads can be connected and from which power can be drawn, as opposed to signal connections used for communication.

r. *Single-voltage external AC–AC power supply* means an external power supply that is designed to convert line voltage AC input into lower voltage AC output and is able to convert to only one AC output voltage at a time.

s. *Single-voltage external AC–DC power supply* means an external power supply that is designed to convert line voltage AC input into lower-voltage DC output and is able to convert to only one DC output voltage at a time.

t. *Standby mode* means the condition in which the external power supply is in no-load mode and, for external power supplies with manual on-off switches, all such switches are turned on.

u. *Switch-selectable single voltage external power supply* means a single-voltage AC–AC or AC–DC power supply that allows users to choose from more than one output voltage.

v. *Total harmonic distortion*, expressed as a percentage, is the RMS value of an AC signal after the fundamental component is removed and interharmonic components are ignored, divided by the RMS value of the fundamental component. THD of current is defined as:

$$THD_I = \frac{\sqrt{I_2^2 + I_3^2 + I_4^2 + I_5^2 + \ldots\ldots I_n^2}}{I_1}$$

where I_n is the RMS value of the nth harmonic of the current signal.

w. *True power factor* (PF) is the ratio of the active power (P) consumed in watts to the apparent power (S), drawn in volt-amperes.

$$PF = \frac{P}{S}$$

This definition of power factor includes the effect of both distortion and displacement.

x. *Unit under test* is the external power supply being tested.

3. * * *

(a) Single-Voltage External Power Supply. * * *

(b) Multiple-Voltage External Power Supply. [Reserved]

4. *Test Measurement:*

(a) Single-Voltage External Power Supply

(i) Standby Mode and Active Mode Measurement—The measurement of standby mode (also no-load mode) energy consumption and active mode efficiency shall conform to the requirements specified in section 5, ''Measurement Approach'' of the CEC's ''Test Method for Calculating the Energy Efficiency of Single-Voltage External Ac-Dc and Ac-Ac Power Supplies,'' August 11, 2004, (incorporated by reference, see § 430.3). Switch-selectable single-voltage external power supplies shall be tested twice—once at the highest nameplate output voltage and once at the lowest.

(ii) Off-Mode Measurement—If the external power supply unit under test incorporates manual on-off switches, the unit under test shall be placed in off mode, and its power consumption in off mode measured and recorded. The measurement of the off mode energy consumption shall conform to the requirements specified in section 5, ''Measurement Approach,'' of the CEC's ''Test Method for Calculating the Energy Efficiency of Single-Voltage External Ac-Dc and Ac-Ac Power Supplies,'' August 11, 2004 (incorporated by reference, see § 430.3), with two exceptions. In section 5.a, ''Preparing UUT [Unit Under Test] for Test,'' all manual on-off switches shall be placed in the ''off'' position for the measurement. In section 5.d, ''Testing Sequence,'' the technician shall consider the UUT stable if, over 5 minutes with samples taken at least once every second, the AC input power does not drift from the maximum value observed by more than 1 percent or 50 milliwatts, whichever is greater. The only loading condition that will be measured for off mode is ''Load Condition 5'' in Table 1 of the CEC's test procedure. Switch-selectable single-voltage external power supplies shall have their off mode power consumption measured twice— once at the highest nameplate output voltage and once at the lowest.

(b) Multiple-Voltage External Power Supply. [Reserved]

■ 6. In § 430.62 add and reserve paragraphs (a)(4)(xviii) through (xxii) and add new paragraphs (a)(4)(xxiii) and (a)(4)(xxiv), to read as follows:

§ 430.62 Submission of data.

(a) * * *

(4) * * *

(xviii)–(xxii) [Reserved]

(xxiii) External power supplies, the average active mode efficiency percentage, no-load mode power consumption in watts, nameplate output power in watts, and, if missing from the nameplate, the output current in amperes of the highest- and lowest-voltage models within the external power supply design family.

(xxiv) Switch-selectable single-voltage voltage external power supplies, the average active mode efficiency percentage and no-load mode power

consumption in watts at the lowest and highest selectable output voltage, nameplate output power in watts, and, if missing from the nameplate, the output current in amperes.

* * * * *

[FR Doc. E9–6138 Filed 3–26–09; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

[Docket ID OCC–2009–0002]

RIN 1557–AD15

Risk-Based Capital Guidelines—Money Market Mutual Funds

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: On September 19, 2008, the Board of Governors of the Federal Reserve System adopted the Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility (the ''AMLF'' or ''ABCP Lending Facility'') which enables depository institutions and bank holding companies to borrow from the Federal Reserve Bank of Boston on a non-recourse basis if they use the proceeds of the loan to purchase certain asset-backed commercial paper (ABCP) from money market mutual funds. The purpose of this action was to reduce strains being experienced by money market mutual funds. To facilitate national bank participation in the program, the Office of the Comptroller of the Currency (OCC) adopted on September 19, 2008, on an interim final basis, an exemption from its risk-based capital guidelines for ABCP held by a national bank as a result of its participation in this program.

The AMLF was set to expire on January 30, 2009. However, to encourage the stability of money market mutual funds, the program has been extended to October 30, 2009. This rule finalizes the risk-based capital exemption and extends the risk-based capital exemption to ABCP purchased beyond the original January 30, 2009, date. This final rule applies the risk-based capital exemption to any ABCP purchased as a result of a national bank's participation in the facility. The risk-based capital exemption will continue to apply if the AMLF is extended beyond October 30, 2009.

DATES: *Effective Date*: March 27, 2009.

FOR FURTHER INFORMATION CONTACT: Margot Schwadron, Senior Risk Expert, (202) 874–6022, Capital Policy Division; Hugh Carney, Attorney; or Stuart Feldstein, Assistant Director, Legislative and Regulatory Activities Division, (202) 874–5090; Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Introduction

In light of the ongoing dislocations in the financial markets, and their impact on the functioning of the ABCP markets and the operations of money market mutual funds, the Board of Governors of the Federal Reserve System (FRB) adopted the AMLF on September 19, 2008.[1] Under the AMLF, depository institutions and bank holding companies (banking organizations) are able to borrow from the Federal Reserve Bank of Boston on a nonrecourse basis on condition that the banking organizations use the proceeds of the Federal Reserve credit to purchase, at amortized cost, certain highly rated U.S. dollar-denominated ABCP from money market mutual funds. The ABCP purchased must be used to secure the borrowing from the Reserve Bank. The purpose of the AMLF is to enable money market mutual funds to increase their liquidity by enabling them to sell some of their high-credit-quality secured assets at amortized cost. The AMLF was set to expire on January 30, 2009. However, to promote continued stability in the money market mutual funds, the FRB extended the program until October 30, 2009.

Description of Interim Final Rule

National banks that participate in the AMLF must acquire and hold ABCP on their balance sheet. These ABCP holdings are subject to regulatory capital requirements under the OCC's regulatory capital guidelines and rules.[2] To facilitate national bank participation in the AMLF, the OCC adopted, on an interim final basis, an exemption from its risk-based capital guidelines for ABCP purchased by a national bank as a result of its participation in the facility.[3] Specifically, the interim final rule amended the OCC's risk-based capital guidelines to permit national banks to assign a zero percent risk weight to ABCP purchased as a result of participation in the facility. The interim final rule applied to ABCP purchased between September 19, 2008, and January 30, 2009. The OCC received one comment from an industry trade group that supported the rule and encouraged its adoption without change.

Description of Final Rule

The OCC continues to believe that the ABCP acquired by a national bank pursuant to the AMLF does not expose the participating national banks to credit or market risk because of the non-recourse nature of the Federal Reserve's credit extension. Therefore, the OCC concludes that it would be appropriate—and consistent with the economic substance of the transactions—to continue to apply the risk-based capital exemption to a national bank that serves as an intermediary in the AMLF. In light of the Federal Reserve's extension of the AMLF program, the OCC has determined to extend the risk-based capital exemption to ABCP purchased beyond the original January 30, 2009 date. The risk-based capital exemption applies to any ABCP purchased as a result of a national bank's participation in the facility. The risk-based capital exemption will continue to apply if the Federal Reserve further extends the AMLF program beyond October 30, 2009.

Consistent with generally accepted accounting principles, the OCC would expect national banks to report purchased ABCP as an investment security (for example, held-to-maturity). These assets would be reflected at the time of purchase at the national bank's best estimate of fair value. The non-recourse nature of the transaction would impact the valuation of the liability to the Federal Reserve. After reflecting any appropriate discounts on the assets and associated liabilities, national banks are not expected to report any material net gains or losses at the time of purchase.

Effective Date

This final rule is effective immediately upon publication. An agency may publish a final rule with an immediate effective date if the agency finds good cause and publishes such with the final rule.[4]

The OCC finds that good cause exists for an immediate effective date. As previously described in this preamble, modification of the risk-based capital guidelines is critical to maintain the orderly functioning of financial markets, to provide market liquidity, and to encourage stability of the operations of money market mutual funds. In the current market environment, a 30 day delayed effective date is impracticable

[1] The OCC's interim final rule refers to the AMLF as the ''ABCP Lending Facility.''

[2] *See* 12 CFR Part 3.

[3] 73 FR 55704 (Sept. 26, 2008).

[4] 5 U.S.C. 553(d)(3).

and inconsistent with the public interest since it may result in undue constraint on national banks' ability to perform critical lending and financial intermediary roles, which are necessary for the orderly functioning and liquidity of financial markets. Issuance of this final rule furthers the public interest because it will reduce liquidity and other strains being experienced by money market mutual funds.

Regulatory Analysis

Executive Order 12866

The OCC has determined that this final rule is not a significant regulatory action under Executive Order 12866. The changes made by this final rule will not have an annual effect on the economy of $100 million or more within the meaning of Executive Order 12866.

Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (Pub. L. 96–354, Sept. 19, 1980) (RFA) applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b).[5] Pursuant to the Administrative Procedure Act (APA) at 5 U.S.C. 553(b)(B), general notice and an opportunity for public comment are not required prior to the issuance of a final rule when an agency, for good cause, finds that ''notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.''[6]

For the reasons set forth in the interim final rule,[7] the OCC determined for good cause that the APA did not require general notice and public comment on the interim final rule and, therefore, did not publish a general notice of proposed rulemaking. Thus, the RFA, pursuant to 5 U.S.C. 601(2), does not apply to this final rule.

Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), the OCC has reviewed the final rule and determined that it contains no collections of information as defined by the Paperwork Reduction Act.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4 (2 U.S.C. 1532) (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. The OCC has determined that there is no Federal mandate imposed by this rulemaking. Accordingly, the final rule is not subject to section 202 of the Unfunded Mandates Act.

List of Subjects in 12 CFR Part 3

Administrative practices and procedure, Capital, National banks, Reporting and recordkeeping requirements, Risk.

12 CFR Chapter I

Authority and Issuance

■ For the reasons stated in the preamble, the Office of the Comptroller of the Currency amends Part 3 of chapter I of Title 12, Code of Federal Regulations, as follows:

PART 3—MINIMUM CAPITAL RATIOS; ISSUANCE OF DIRECTIVES

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

Authority: 12 U.S.C. 93a, 161, 1818, 1828(n), 1828 note, 1831n note, 1835, 3907, and 3909.

■ 2. In Appendix A to part 3, section 3(a)(1) is amended by revising paragraph (ix) to read as follows:

Appendix A to Part 3—Risk-Based Capital Guidelines

* * * * *

Section 3. Risk Categories/Weights for On-Balance Sheet Assets and Off-Balance Sheet Items

* * * * *

(a) * * *

(1) *Zero percent risk weight.* * * *

(ix) Asset-backed commercial paper (ABCP) that is:

(A) Purchased by the bank on or after September 19, 2008, from a Securities and Exchange Commission (SEC)-registered open-end investment company that holds itself out as a money market mutual fund under SEC Rule 2a–7 (17 CFR 270.2a–7); and

(B) Pledged by the bank to a Federal Reserve Bank to secure financing from the ABCP lending facility (AMLF) established by the Federal Reserve Board on September 19, 2008.

* * * * *

Dated: March 19, 2009.

John C. Dugan,

Comptroller of the Currency.

[FR Doc. E9–6864 Filed 3–26–09; 8:45 am]

BILLING CODE 4810–33–P

[5] 5 U.S.C. 601(2).

[6] 5 U.S.C. 553(b)(B).

[7] 73 FR 55704 (Sept. 26, 2008).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0270; Directorate Identifier 2008–NE–30–AD; Amendment 39–15865; AD 2009–07–06]

RIN 2120–AA64

Airworthiness Directives; Hamilton Sundstrand Propellers Model 568F Propellers

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Hamilton Sundstrand Propellers model 568F propellers with certain part number (P/N) and serial number (SN) blades. This AD requires removing affected propeller blades from service for rework. This AD results from reports of blades with corrosion pits in the tulip area of the blades. We are issuing this AD to prevent cracks from developing in the tulip area of the blade, which could result in separation of the blade and loss of airplane control.

DATES: This AD becomes effective May 1, 2009.

We must receive any comments on this AD by May 26, 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:* U.S. Docket Management Facility, 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.

Contact Hamilton Sundstrand Propeller Technical Team, One Hamilton Road, Mail Stop 1–3–AB43, Windsor Locks, CT 06096–1010; fax (860) 654–5107, for the service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Terry Fahr, Aerospace Engineer, Boston Aircraft Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *terry.fahr@faa.gov;* telephone (781) 238–7155; fax (781) 238–7170.

SUPPLEMENTARY INFORMATION: We have received reports of corrosion on six propeller blades. A lack of adhesive and primer beyond the end of the compression wrap during manufacturing of certain serial-numbered propeller blades could result in corrosion pits developing in the tulip area of the propeller blade. This condition, if not corrected, could cause cracks in the tulip area, which could result in separation of the propeller blade and possible loss of airplane control.

FAA's Determination and Requirements of This AD

Although no airplanes that are registered in the United States use these propellers, the possibility exists that the propellers could be used on airplanes that are registered in the United States in the future. The unsafe condition described previously is likely to exist or develop on other Hamilton Sundstrand Propellers model 568F propellers of the same type design. We are issuing this AD to prevent cracks from developing in the tulip area of the blade, which could result in separation of the blade and loss of airplane control. This AD requires removing from service, Hamilton Sundstrand Propellers model 568F propellers, with a P/N and SN listed in Table 1 of this AD, within 30 days after the effective date of this AD.

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 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 ''AD Docket No. FAA–2009–0270; Directorate Identifier 2008–NE–30–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 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 adding the following new airworthiness directive:

2009–07–06 Hamilton Sundstrand Corporation: Amendment 39–15865. Docket No. FAA–2009–0270; Directorate Identifier 2008–NE–30–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective May 1, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Hamilton Sundstrand Propellers model 568F propellers with blades, part numbers (P/Ns) R815505R2, R815505R3, R815505R4, R815505S2, and R815505S3, that have a serial number (SN) listed in Table 1 of this AD, installed. These propellers are installed on, but not limited to, ATR–GIE Avions de Transport Regional ATR–42–400 and –500, ATR72–210A, –500, and Construcciones Aeronauticas, S.A. C–295 airplanes.

TABLE 1—AFFECTED PROPELLER BLADES BY SN

31
33
34
37
40
43
105
230
259
265
277

TABLE 1—AFFECTED PROPELLER BLADES BY SN—Continued

278
403
747
1007
1031
1510
1515
1803
1813
1823
1834
1917
2072
2299
2300
2383
2459
2460
2462
2464
2469
2470
2473
2492
2510
2535
2577
2625
20010731
20010732
20010917
20020568

Unsafe Condition

(d) This AD results from reports of blades with corrosion pits in the tulip area of the blades. We are issuing this AD to prevent cracks from developing in the tulip area of the blade, which could result in separation of the blade and loss of airplane control.

Compliance

(e) You are responsible for having the actions required by this AD performed within 30 days after the effective date of this AD.

Removing Blades P/Ns R815505R2, R815505R3, R815505R4, R815505S2, and R815505S3

(f) Remove from service blades, P/Ns R815505R2, R815505R3, R815505R4, R815505S2, and R815505S3, that have a SN listed in Table 1 of this AD.

Alternative Methods of Compliance

(g) The Manager, Boston 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.

Special Flight Permits

(h) Under 14 CFR 39.23, we will not issue any special flight permits.

Related Information

(i) Hamilton Sundstrand Alert Service Bulletin 568F–61–A47, dated September 19, 2005, pertains to the subject of this AD Contact Hamilton Sundstrand Propeller Technical Team, One Hamilton Road, Mail Stop 1–3–AB43, Windsor Locks, CT 06096–1010; fax (860) 654–5107, for a copy of this service information.

(j) Contact Terry Fahr, Aerospace Engineer, Boston Aircraft Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *terry.fahr@faa.gov*; telephone (781) 238–7155; fax (781) 238–7170, for more information about this AD.

Material Incorporated by Reference

(k) None.

Issued in Burlington, Massachusetts, on March 20, 2009.

Peter A. White,

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

[FR Doc. E9–6876 Filed 3–26–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5, 92, and 908

[Docket No. FR–4998–F–04]

RIN 2501–AD16

Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs: Delay of Effective Date

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule; Delay of effective date.

SUMMARY: HUD is delaying the effective date of the rule entitled ''Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs'' published in the **Federal Register** on January 27, 2009. The rule, which was originally scheduled to become effective on March 30, 2009, will become effective on September 30, 2009. Today's action follows publication of HUD's February 11, 2009, **Federal Register** notice seeking public comment on whether delay in the effective date of the January 27, 2009, final rule, would be beneficial in further consideration of the rule's policies. This action is being taken in accordance with the memorandum of January 20, 2009, from the assistant to the President and Chief of Staff, entitled ''Regulatory Review.''

DATES: *Effective Date:* The effective date of the final rule, which was published on January 27, 2009 (74 FR 4832) is delayed until September 30, 2009.

FOR FURTHER INFORMATION CONTACT: For Office of Public and Indian Housing programs, contact Nicole Faison, Director of the Office of Public Housing Programs, Department of Housing and Urban Development, 451 7th Street, SW., Room 4226, Washington, DC 20410, telephone number 202–708–0744. For Office of Housing Programs, contact Gail Williamson, Director of the Housing Assistance Policy Division, Department of Housing and Urban Development, 451 7th Street, SW., Room 6138, Washington, DC 20410, telephone number 202–402–2473. (These are not toll-free numbers.) Persons with hearing or speech impairments may access these numbers through TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On January 27, 2009 (74 FR 4832), HUD published a final rule, entitled ''Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs.'' The January 27, 2009, final rule revises HUD's public and assisted housing program regulations to implement the upfront income verification process for program participants and to require the use of HUD's Enterprise Income Verification (EIV) system by public housing agencies and owners and management agents. The final rule was originally scheduled to become effective on March 30, 2009, but provided multifamily housing owners and management agents with an additional six months (until September 30, 2009) to implement use of the EIV.

On February 11, 2009 (74 FR 6839), HUD published a notice in the **Federal Register** seeking public comment on whether delay in the effective date of the January 27, 2009, final rule, would be beneficial to further consider the rule's policies before they become effective. The notice was issued in accordance with the memorandum of January 20, 2009, from the assistant to the President and Chief of Staff, entitled ''Regulatory Review'' and subsequently published in the **Federal Register** on January 26, 2009 (74 FR 4435). The notice explained that HUD was considering a temporary 60-day delay in the effective date to allow HUD officials the opportunity for further review and consideration of new regulations, consistent with the Chief of Staff memorandum of January 20, 2009.

In addition to seeking public comment, in the February 11, 2009, notice HUD took the opportunity to address questions received subsequent to publication of the January 27, 2009, final rule pertaining to the provisions requiring the use of social security numbers for determining program eligibility. The February 11, 2009, notice clarified that these requirements are not intended to apply to individuals, in mixed families, who do not contend

eligible immigration status under HUD's noncitizens regulations, nor do they interfere with existing requirements relative to proration of assistance or screening for such families, or authorize their eviction or denial of admission on the basis of the new requirements pertaining to obtaining social security numbers.

The February 11, 2009, notice solicited comments specifically on a delayed effective date, but also generally on the January 27, 2009 final rule. HUD received approximately 50 comments in response to the February 11, 2009, notice. The majority of comments were supportive of a delayed effective date. The majority of the commenters also raised additional questions and comments about various aspects of the January 27, 2009, final rule.

II. This Final Rule

Through this final rule, HUD delays the effective date of the January 27, 2009, final rule until September 30, 2009. A delay until September 30, 2009 will provide HUD with additional time to review the public comments received in response to the February 11, 2009, notice, respond to those comments in a subsequent publication, and consider whether additional regulations or changes to the regulations in the January 27, 2009, final rule are necessary or appropriate. Since September 30, 2009, is the date in the January 27, 2009, final rule for multifamily housing owners and management agents to implement the use of EIV, the Department has determined not to provide additional delay in implementation in the use of EIV for multifamily housing owners and management agents as provided in the January 27, 2009, final rule. The implementation date for public housing agencies, multifamily housing owners, and management agents will now all be the same as the new effective date, September 30, 2009. Should HUD determine that additional rulemaking is necessary or appropriate, HUD will provide the public with the opportunity to comment on any proposed changes to the regulations in the January 27, 2009, final rule.

Dated: March 24, 2009.

Paula O. Blunt,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. E9–6942 Filed 3–26–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

Determination of Interest Expense Deduction of Foreign Corporations

CFR Correction

In Title 26 of the Code of Federal Regulations, Part 1 (§§ 1.851 to 1.907), revised as of April 1, 2008, on page 436, in § 1.882–5, reinstate paragraph (d)(2)(ii)(B) to read as follows:

§ 1.882–5 Determination of interest deduction.

* * * * *

(d) * * *

(2) * * *

(ii) * * *

(B) *Identified liabilities not properly reflected.* A liability is not properly reflected on the books of the U.S. trade or business merely because a foreign corporation identifies the liability pursuant to § 1.884–4(b)(1)(ii) and (b)(3).

* * * * *

[FR Doc. E9–6944 Filed 3–26–09; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9446]

RIN 1545–BGO9

Gain Recognition Agreements With Respect to Certain Transfers of Stock or Securities by United States Persons to Foreign Corporations; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to final regulations (TD 9446) that were published in the **Federal Register** on Wednesday, February 11, 2009 concerning gain recognition agreements filed by United States persons with respect to transfers of stock or securities to foreign corporations.

DATES: This correction is effective on March 27, 2009, and is applicable on March 13, 2009.

FOR FURTHER INFORMATION CONTACT: S. James Hawes, (202) 622–3860 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this document are under section 367(a) of the Internal Revenue Code.

Need for Correction

The final regulations (TD 9446) that were published in the **Federal Register** on February 11, 2009 (74 FR 6952), inadvertently removed Treas. Reg. § 1.367(a)–3T in its entirety rather than removing § 1.367(a)–3T(e), (f)(1), (f)(2), and the second sentence of § 1.367(a)–3T(f)(3). This document correctly adds the text of § 1.367(a)–3T back into the Code of Federal Regulations.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

■ Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.367(a)–3T is added to read as follows:

§ 1.367(a)–3T Treatment of transfers of stock or securities to foreign corporations (temporary).

(a) through (b)(2)(i)(B) [Reserved]. For further guidance, see § 1.367(a)–3(a) through (b)(2)(i)(B).

(b)(2)(i)(C) If in connection with a transaction described in § 1.367(b)–14T, one or more U.S. persons transfer stock of T, as defined in § 1.358–6(b)(1)(iii), to a corporation in a transfer described in section 367(a), and the amount of gain in the T stock that would otherwise be recognized under section 367(a) is less than the deemed distribution that would result from the adjustments made under § 1.367(b)–14T and that would be treated as a dividend under section 301(c)(1), then section 367(b), and not section 367(a), shall apply to such transaction. This paragraph (b)(2)(i)(C) applies to transfers occurring on or after May 23, 2008.

(b)(2)(ii) through (f) [Reserved]. For further guidance, see § 1.367(a)–3(b)(2)(ii) through (f).

(g) *Effective/applicability date.* Paragraph (b)(2)(i)(C) of this section applies to transfers occurring on or after May 23, 2008.

(h) *Expiration date.* The applicability of paragraph (b)(2)(i)(C) of this section expires on May 23, 2011.

■ **Par. 3.** Section 1.367(a)–8(r)(2) is amended by revising the paragraph heading to read as follows:

§ 1.367(a)–8 Gain recognition agreement requirements.

* * * * *

(r) * * *

(2) *Applicability to transfers occurring before March 13, 2009* * * *

* * * * *

Robin Jones,

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

[FR Doc. E9–6871 Filed 3–26–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 602

OMB Control Numbers Under the Paperwork Reduction Act

CFR Correction

In Title 26 of the Code of Federal Regulations, Part 600 to End, revised as of April 1, 2008, on page 145, in § 602.101, in the table in paragraph (b), add the entry ''1545–1511'' to the second column for § 1.468A–7T and remove the entry ''1.545–1511,'' from the first column following § 1.468A–3T(h).

[FR Doc. E9–6943 Filed 3–26–09; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[USCG–2009–0005]

RIN 1625–AA87

Temporary Security Zone; Freeport LNG Basin, Freeport, TX

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone in the Freeport LNG Basin. This security zone is needed to protect vessels, waterfront facilities, the public, and other surrounding areas from destruction, loss, or injury caused by sabotage, subversive acts, accidents, or other actions of a similar nature. Entry into this zone would be prohibited, except for vessels that have obtained the express permission from the Captain of the Port Houston-Galveston or his designated representative.

DATES: This rule is effective from 12 p.m. (noon) on January 15, 2009 until 12 a.m. (noon) on April 30, 2009.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [USCG–2009–0005] and are available online by going to *http://www.regulations.gov,* selecting the Advanced Docket Search option on the right side of the screen, inserting USCG–2009–0005 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. This material is also available for inspection or copying at two locations: the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays and the Marine Safety Unit Galveston, 3101 FM 2004 Texas City, Texas 77591 between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Cliff Harder, Marine Safety Unit Galveston, Texas, at 409–978–2705. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing a NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to reduce potential methods of attack on vessels, waterfront facilities, and adjacent population centers located within the zones.

Background and Purpose

Heightened awareness of potential terrorist acts requires enhanced security of our ports, harbors, and vessels. To enhance security, the Captain of the Port Houston-Galveston is establishing a temporary security zone.

This rule will create a new temporary security zone within the port of Freeport, TX. This zone would protect waterfront facilities, persons, and vessels from subversive or terrorist acts. Vessels operating within the Captain of the Port Houston-Galveston Zone are potential targets of terrorist attacks, or potential launch platforms for terrorist attacks on other vessels, waterfront facilities, and adjacent population centers.

This zone is being established for an area concentrated with commercial facilities considered critical to national security. This rule is not designed to restrict access to vessels engaged or assisting in commerce with waterfront facilities within the security zones, vessels operated by port authorities, vessels operated by waterfront facilities within the security zones, and vessels operated by federal, state, county or municipal agencies. By limiting access to this area the Coast Guard would reduce potential methods of attack on vessels, waterfront facilities, and adjacent population centers located within the zones. All such vessels, which are listed in 33 CFR 165.814(c), desiring to enter this zone would be required to obtain express permission from the Captain of the Port Houston-Galveston or his designated representative prior to entry.

Discussion of Rule

The Captain of the Port Houston-Galveston is establishing a temporary security zone in the Freeport LNG Basin. The zone would encompass all waters shoreward of a line drawn between the eastern point at 28°56′25″ N, 095°18′13″ W, and the western point at 28°56′28″ N, 095°18′31″ W. This security zone would be part of a comprehensive port security regime designed to safeguard human life, vessels, and waterfront facilities against sabotage or terrorist attacks.

All vessels not exempted under this rule would be prohibited from entering the security zone unless authorized by the Captain of the Port Houston-Galveston or his designated representative. In Houston, vessels can contact the Captain of the Port Houston-Galveston through Vessel Traffic Service Houston/Galveston on VHF Channel 5A, by telephone at 713–671–5103, or by facsimile at 713–671–5159. In Freeport, vessels can contact the Captain of the Port Houston-Galveston through Marine Safety Unit Galveston, by telephone at 409–978–2700, or by facsimile at 409–978–2671. This rule is effective from 12 a.m. (noon) on January 15, 2009 until 12 a.m. (noon) on April 30, 2009.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory

Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. The basis of this finding is that the security zone is not part of the navigable waterway or a commercial fishing ground. It does not impede commercial traffic to or from the Port of Freeport or on the adjacent Intracoastal Waterway. Additionally, any other vessel wishing to enter the security zone may request permission to do so.

Small Entities

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

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

This rule would not have a significant economic impact on a substantial number of small entities for the following reason: This rule will not interfere with regular vessel traffic within the Freeport Ship Channel and/or the Intracoastal Waterway.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Cliff Harder at 409–978–2705.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. Therefore, this rule is categorically excluded, under section 2.B.2, figure 2–1, paragraph (34)(g) of the Instruction. Paragraph (34)(g) covers regulations establishing, disestablishing, or changing security zones. This rule involves temporarily establishing a security zone in the Freeport LNG Basin.

Neither an environmental assessment nor an environmental impact statement is required. An ''Environmental Analysis Check List'' and a categorical exclusion are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.2.

■ 2. Add § 165.T08–0005 to read as follows:

§ 165.T08–0005 Security Zone; Freeport LNG Basin, Freeport, TX.

(a) *Location.* The security zone includes all waters, from surface to bottom, shoreward of a line drawn between the point at 28°56′25″ N, 095°18′13″ W, and the western point at 28°56′28″ N, 095°18′31″ W.

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

Designated Representative means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Houston-Galveston, to assist in the enforcement of the security zone.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Houston-Galveston or a designated representative.

(2) Entry into or remaining in the security zones described in paragraph (a) of this section is prohibited for all vessels except:

(i) Commercial vessels operating at the waterfront facilities within these security zones;

(ii) Commercial vessel transiting directly to or from waterfront facilities within these security zones;

(iii) Vessels providing direct operational/logistic support to commercial vessels within these security zones;

(iv) Vessels operated by the port authority or by facilities located within these security zones; and

(v) Vessels operated by federal, state, county, or municipal agencies;

(3) All persons and vessels within the security zone must comply with the instructions of the Captain of the Port Houston-Galveston and designated on-scene U.S. Coast Guard patrol personnel.

(4) Persons or vessels requiring entry into or passage through the zone must request permission from the Captain of the Port Houston-Galveston, or a designated representative. They may be contacted at ''Sector Houston-Galveston'' on VHF–FM Channel 16, or by phone at (713) 671–5113.

(5) All persons and vessels shall comply with the instructions of the Captain of the Port Houston-Galveston and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: January 15, 2009.

William J. Diehl,

Captain, U.S. Coast Guard, Captain of the Port Houston-Galveston.

[FR Doc. E9–6818 Filed 3–26–09; 8:45 am]

BILLING CODE

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[USCG–2009–0006]

RIN 1625–AA87

Temporary Moving Security Zone; Freeport Channel Entrance, Freeport, TX

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary moving security zones for certain vessels, for which the Captain of the Port, Houston-Galveston, deems enhanced security measures necessary on a case-by-case basis. These moving security zones would extend 1,000 yards ahead and astern and 500 yards on each side of certain vessels, which will display the international signal flag or pennant number five to signal a security zone is established around the vessel. The moving security zone may commence at any point after certain vessels bound for the Port of Freeport enter the U.S. territorial waters (12 nautical miles) in the Captain of the Port Houston-Galveston zone. These security zones are needed to safeguard the vessels, the public, and the surrounding area from sabotage or other subversive acts, accidents, or other events of a similar nature. Unless exempted under this rule, entry into or movement within these security zones would be prohibited without permission from the Captain of the Port Houston-Galveston.

DATES: This rule is effective from 12 p.m. (noon) on January 15, 2009 until 12 a.m. on April 31, 2009.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [USCG–2009–0006] and are available online by going to *http://www.regulations.gov*, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG–2009–0006 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. This material is also available for inspection or copying at two locations: the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays and the Marine Safety Unit Galveston, 3101 FM 2004, Texas City, TX 77591, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Cliff Harder, Marine Safety Unit Galveston, Texas, at (409) 978–2705. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing a NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to reduce potential methods of attack on vessels, waterfront facilities, and adjacent population centers located within the zones.

Background and Purpose

Heightened awareness of potential terrorist acts requires enhanced security of our ports, harbors, and vessels; to enhance security, the Captain of the Port Houston-Galveston is establishing temporary moving security zones around escorted vessels.

This rule would establish distinct moving security zones that may commence at any point after certain vessels bound for the Port of Freeport enter the 12-nautical mile U.S. territorial waters in the Captain of the Port Houston-Galveston zone. These zones would be established to protect waterfront facilities, persons, and vessels from subversive or terrorist acts.

Vessels operating within the Captain of the Port Houston-Galveston zone are potential targets of terrorist attacks, or potential launch platforms for terrorist attacks on other vessels, waterfront facilities, and adjacent population centers.

Due to the potential for terrorist attacks, this rule would allow the Captain of the Port to create moving security zones around certain vessels as deemed necessary, on a case-by-case basis. All vessels around which a security zone is deemed necessary will display the international signal flag or pennant number five, to signal that there is a security zone established around the vessel. By limiting access to these areas, the Coast Guard is reducing potential methods of attack on vessels, waterfront facilities, and adjacent population centers located within these security zones. Vessels having a need to enter these security zones must obtain express permission from the Captain of the Port Houston-Galveston or his designated representative prior to entry.

Discussion of Rule

The Coast Guard is establishing moving security zones for certain vessels, for which the Captain of the Port Houston-Galveston deems enhanced security measures necessary on a case-by-case basis. These moving security zones will be activated for certain vessels within the Captain of the Port Houston-Galveston zone commencing at U.S. territorial waters through the Freeport Entrance Channel, extending from the surface to the sea floor. These moving security zones are established as follows: 1,000 yards ahead and astern and 500 yards on each side of certain vessels while in transit. Unless exempted under this rule, these moving security zones would prohibit entry into or movement within this portion of the Captain of the Port Houston-Galveston zone without Captain of the Port authorization. These security zones are needed to safeguard the vessels, the public, and the surrounding area from sabotage or other subversive acts, accidents, or other events of a similar nature.

All vessels not exempted under this rule would be prohibited from entering these security zones unless authorized by the Captain of the Port Houston-Galveston or his designated representative. In Houston, vessels can contact the Captain of the Port Houston-Galveston through Vessel Traffic Service Houston/Galveston on VHF Channel 5A, by telephone at 713–671–5103, or by facsimile at 713–671–5159. In Freeport, vessels can contact the Captain of the Port Houston-Galveston through Marine Safety Unit Galveston, by telephone at 409–978–2700, or by facsimile at 409–978–2671. This rule is effective from 12 p.m. (noon) on January 15, 2009 until 12 a.m. on April 31, 2009.

Regulatory Evaluation

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

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. The basis of this finding is that the duration of the security zones is limited in nature and would not create undue delay to vessel traffic in and around the Port of Freeport. Additionally, any other vessel wishing to enter the security zone may request permission to do so.

Small Entities

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

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

This rule would not have a significant economic impact on a substantial number of small entities for the following reason: The duration of the security zones is limited in nature and would not create undue delay to vessel traffic in and around the Port of Freeport.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Cliff Harder at 409–978–2705. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial

direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. Therefore, this rule is categorically excluded, under section 2.B.2, figure 2–1, paragraph (34)(g) of the Instruction. Paragraph (34)(g) covers regulations establishing, disestablishing, or changing security zones. This rule involves temporarily establishing a security zone in the Captain of the Port Houston-Galveston zone.

Neither an environmental assessment nor an environmental impact statement is required. An ''Environmental Analysis Check List'' and a categorical exclusion are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 3306; 3706; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T818 to read as follows:

§ 165.T818 Moving Security Zones for Certain Vessels in Freeport Entrance Channel, Freeport, Texas.

(a) *Location.* The following areas are security zones: All waters within the Captain of the Port Houston-Galveston Zone commencing at U.S. territorial waters through the Freeport Entrance Channel, from surface to bottom, one thousand (1,000) yards ahead and astern and five hundred (500) yards on each side of any vessel within the 12 nautical mile U.S. Territorial Waters in the Captain of the Port Houston-Galveston zone that displays the international signal flag or pennant number five.

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

Designated Representative means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Houston-Galveston, to assist in the enforcement of the security zone.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Houston-Galveston or a designated representative.

(2) Entry into or remaining in the security zones described in paragraph (a) of this section is prohibited for all vessels except:

(i) Moored vessels or vessels anchored in a designated anchorage area. A moored or an anchored vessel in a security zone must remain moored or anchored unless it obtains permission from the Captain of the Port Houston-Galveston to do otherwise;

(ii) Commercial vessels operating at the waterfront facilities within these security zones;

(iii) Commercial vessel transiting directly to or from waterfront facilities within these security zones;

(iv) Vessels providing direct operational/logistic support to commercial vessels within these security zones;

(v) Vessels operated by the port authority or by facilities located within these security zones; and

(vi) Vessels operated by federal, state, county, or municipal agencies;

(3) All persons and vessels within the moving security zone must comply with the instructions of the Captain of the Port Houston-Galveston and designated on-scene U.S. Coast Guard patrol personnel.

(4) To request permission as required by these regulations, contact the Sector Houston-Galveston Command Center by telephone at 713–671–5113. In Freeport, vessels should contact the Captain of the Port Houston Galveston's designated representative for the moving security zone on VHF Channel 16, or by telephone at 979–233–7551.

(d) *Informational broadcasts.* The Captain of the Port Houston-Galveston will inform the public when moving security zones have been established around certain vessels via Broadcast Notice to Mariners on VHF channel 16 and 13.

Dated: January 15, 2009.

William J. Diehl,

Captain, U.S. Coast Guard, Captain of the Port Houston-Galveston.

[FR Doc. E9–6820 Filed 3–26–09; 8:45 am]

BILLING CODE

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 424

[CMS–6006–F2]

RIN 0938–AO84

Medicare Program; Surety Bond Requirement for Suppliers of Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS); Correcting Amendment

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

ACTION: Final rule; correcting amendment.

SUMMARY: This correcting amendment corrects a technical error in the amendatory instructions of the regulations text in the final rule entitled ''Medicare Program; Surety Bond Requirement for Suppliers of Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS)'' published in the January 2, 2009 **Federal Register** (74 FR 166). In that final rule, we implemented section 1834(a)(16)(B) of the Social Security Act (the Act) requiring certain Medicare suppliers of durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) to furnish CMS with a surety bond. In addition, in the January 2, 2009 final rule, we responded to public comments on the August 1, 2007 proposed rule (72 FR 42001). The effective date for the January 2, 2009 final rule was March 3, 2009.

DATES: *Effective Date:* This correcting amendment is effective March 27, 2009.

FOR FURTHER INFORMATION CONTACT: Frank Whelan, (410) 786–1302.

SUPPLEMENTARY INFORMATION:

I. Background and Summary of Error

In FR Doc. E8–30802 issued on January 2, 2009 (74 FR 166), the final rule entitled ''Medicare Program; Surety Bond Requirement for Suppliers of Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS), there was a technical error that is identified and corrected in this document. The error was the result of a conflicting amendatory instruction in the ''Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for CY 2009'' final rule with comment period (73 FR 69726) that was effective January 1, 2009. The correction in this correcting amendment is effective on March 27, 2009.

On page 198 of the January 2, 2009 final rule, we made a technical error in the amendatory instruction for § 424.57. In the first amendatory instruction 2.D., the phrase ''Redesignating paragraphs (d) and (e) as paragraphs (e) and (f)'' should be corrected to read ''Redesignating paragraphs (d) and (e) as paragraphs (e) and (g).''

II. Waiver of Proposed Rulemaking and Delay in Effective Date

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

This action merely corrects a technical error in the January 2, 2009 final rule that was promulgated through notice and comment rulemaking. We are in no way changing the policy contained in that rule. For this reason, we find that both notice and comment and the 30-day delay in effective date for this action are unnecessary. Therefore, we find there is good cause to waive notice and comment procedures and the 30-day delay in effective date for this action.

List of Subjects in 42 CFR Part 424

Emergency medical services, Health facilities, Health professions, Medicare.

■ For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR chapter IV as set forth below:

PART 424—CONDITIONS FOR MEDICARE PAYMENT

■ 1. The authority citation for part 424 is revised to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

Subpart D—To Whom Payment Is Ordinarily Made

§ 424.57 [Amended]

■ 2. Section 424.57 is amended by redesignating paragraphs (d) and (e) as paragraphs (e) and (g).

Authority: Catalog of Federal Domestic Program No. 93.774, Medicare—Supplementary Medical Insurance Program.

Dated: March 17, 2009.

Ashley Files Flory,

Acting Executive Secretary to the Department.

[FR Doc. E9–6778 Filed 3–26–09; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 447 and 457

[CMS–2244–F3]

RIN 0938–A047

Medicaid Program; Premiums and Cost Sharing

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

ACTION: Final rule; delay of effective date and reopening of comment period.

SUMMARY: This action temporarily delays the effective date of the November 25, 2008 final rule entitled, ''Medicaid Program; Premiums and Cost Sharing'' (73 FR 71828) until December 31, 2009. In addition, this action reopens the comment period on the policies set out in the November 25, 2008 final rule, and specifically solicits comments on the effect of certain provisions of the American Recovery and Reinvestment Act of 2009.

DATES: *Effective Date.* This action is effective March 26, 2009. The effective date of the rule amending 42 CFR parts 447 and 457 published in the November 25, 2008 **Federal Register** (73 FR 71828) is delayed until December 31, 2009.

Comment Period. To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on April 27, 2009.

ADDRESSES: In commenting, please refer to file code CMS–2244–F3. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' and enter the file code to find the document accepting comments.

2. *By regular mail.* You may mail written comments (one original and two copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–2244–F3, P.O. Box 8010, Baltimore, MD 21244–8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments (one

original and two copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–2244–F3, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–8010.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments (one original and two copies) before the close of the comment period to either of the following addresses:

a. Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

(Because access to the interior of the HHH Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786–9994 in advance to schedule your arrival with one of our staff members.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

FOR FURTHER INFORMATION CONTACT: Christine Gerhardt, (410) 786–0693.

SUPPLEMENTARY INFORMATION:

I. Background

A. Regulatory History

On November 25, 2008, we published a final rule entitled ''Medicaid Program; Premiums and Cost Sharing'' in the **Federal Register** to implement and interpret the provisions of sections 6041, 6042, and 6043 of the Deficit Reduction Act of 2005 (DRA), and section 405(a)(1) of the Tax Relief and Health Care Act of 2006 (TRHCA) (73 FR 71828). The DRA was amended by the TRHCA which revised sections 6041, 6042, and 6043 of the DRA including limitations on cost sharing for individuals with family incomes at or below 100 percent of the Federal poverty line. These sections amended the Social Security Act (the Act) by adding a new section 1916A to provide State Medicaid agencies with increased flexibility to impose premium and cost sharing requirements on certain Medicaid recipients. The final rule allowed for flexibility to supplement the existing authority States have to impose premiums and cost sharing under section 1916 of the Act. The DRA provisions also specifically address cost sharing for non-preferred drugs and non-emergency care furnished in a hospital emergency department. In addition, in the November 25, 2008 final rule, we responded to public comments on the February 22, 2008 proposed rule (73 FR 9727).

Subsequent to the publication of the November 25, 2008 final rule, in accordance with the memorandum of January 20, 2009 from the Assistant to the President and the Chief of Staff, entitled ''Regulatory Review,'' we published a final rule in the **Federal Register** to temporarily delay for 60 days the effective date of the November 25, 2008 final rule entitled, ''Medicaid Program; Premiums and Cost Sharing'' (January 27, 2009, 74 FR 4888). The final rule also reopened the comment period on the policies set out in the November 25, 2008 final rule. We received 5 public comments in response to the January 27, 2009 final rule.

B. New Legislation

The American Recovery and Reinvestment Act of 2009 (ARRA), Pub. L. 111–5, was enacted on February 17, 2009. Certain provisions of ARRA affect current regulations regarding premiums and cost sharing. Specifically, section 5006(a) of ARRA added section 1916(j) to the Social Security Act (the Act) to provide that effective December 31, 2009, the Medicaid program and the Children's Health Insurance Program (CHIP) are prohibited from imposing an enrollment fee, premium, or similar charge, or deduction, copayment, cost-sharing or similar charge on American Indians and Alaska Natives for services provided directly by the Indian Health Service, an Indian Tribe, Tribal Organization, or Urban Indian Organization or through referral under contract health services for which payment may be made.

II. Provisions of the Final Rule

This action delays the effective date of the November 25, 2008 final rule. The effective date of that rule, which would have been March 27, 2009, is now December 31, 2009. Upon review and consideration of the new provisions of ARRA and the public comments we received during the reopened comment period, we believe that it may be necessary to revise a substantial portion of the November 25, 2008 final rule. Therefore, to inform future rulemaking on this issue, we are delaying the effective date a second time to give the public an additional opportunity to submit additional comments on the policy set forth in the November 25, 2008 final rule as well as the provisions of ARRA, discussed above. We anticipate that this time period will allow sufficient time for CMS to consider such comments and develop appropriate revisions to the delayed rule.

IV. Waiver of Proposed Rulemaking and Delay in Effective Date

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

This final rule delays the effective date of the final rule that was promulgated through notice and comment rulemaking, and does not make substantive changes to the policies that were finalized in the final rule. Delay in the effective date and reopening of the comment period is necessary to ensure that the final rule fully takes into account public comments, and conforms to recently enacted legislation, before the rule becomes effective. We do not believe that there will be any adverse impact or effect on the public from this delay in the effective date. Moreover, it would not be in the public interest for the underlying rule to go into effect, or to have uncertainty about whether it is in effect, when the underlying rule does not conform to statutory requirements. In addition, it is not in the public interest to put into effect a rule that we intend to revise in a reasonable time frame after fully taking into account public comment. For the reasons stated above, we find that both notice and comment procedures and the 30-day delay in effective date for this final rule are unnecessary and contrary to the public interest. Therefore, we find there is good cause to waive notice and comment procedures and the 30-day delay in effective date for this final rule.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: March 20, 2009.

Charlene Frizzera,

Acting Administrator, Centers for Medicare & Medicaid Services.

Approved: March 24, 2009.

Charles E. Johnson,

Acting Secretary.

[FR Doc. E9–6907 Filed 3–24–09; 4:15 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 090311306–9309–01]

RIN 0648–XN88

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; 2009 Scup and Black Sea Bass Specifications; Correction

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

ACTION: Final rule; correction.

SUMMARY: On January 2, 2009, NMFS published in the **Federal Register** a final rule containing final specifications for the 2009 scup and black sea bass fisheries. On six occasions in the preamble text of that rule, the English system of measurement in pounds for various iterations of the scup and black sea bass specifications were incorrectly converted into metric system of measurement equivalents. This document corrects those values to insure that the metric values are consistent with the 2009 specifications.

DATES: Effective March 27, 2009, through December 31, 2009.

FOR FURTHER INFORMATION CONTACT: Michael Ruccio, Fishery Policy Analyst, (978) 281–9104.

SUPPLEMENTARY INFORMATION: The final rule, including final quota specifications (i.e., commercial quota and recreational harvest limit) for the 2009 summer flounder, scup, and black sea bass fisheries was published in the **Federal Register** on January 2, 2009 (74 FR 29). On page 32, in the first column, the proposed scup Total Allowable Catch (TAC) is listed as 5,339 metric tons (mt), the TAC implemented by the final rule in the second column is listed as 5,796 mt, and the Total Allowable Landings (TAL) is listed as 4, 170 mt. In the third column, the commercial quota is listed at 3,123 mt, and the recreational harvest limit is listed as 965 mt.

The corrected values for these scup specification values are as follows: The 2009 proposed TAC is 5,307 mt, the final rule TAC is 7,049 mt, the final rule TAL is 5,071 mt, the commercial quota is 3,798 mt, and the recreational harvest limit is 1,173 mt.

The black sea bass commercial quota in the first column of page 35 is listed as 1,043 mt. The corrected value for the commercial quota is 495 mt.

Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator finds good cause to waive prior notice and opportunity for additional public comment for this action because any delay of this action would be contrary to the public interest. As explained above, this rule corrects various metric values for the 2009 scup TAC, TAL, commercial quota, and recreational harvest limit and black sea bass commercial quota that had already been published in the **Federal Register**. In the final specifications rule published January 2, 2009 (74 FR 29), the various quota iterations were correctly listed in the English system of measurement. These values were inadvertently converted to the metric system utilizing the incorrect conversion factor and thus, the metric values listed in the final specifications rule are not correct or equal to the English system values. To delay this correction notice would cause confusion over the aforementioned available 2009 scup and black sea bass harvest levels because of the disparity between the English system of measurement, in pounds, and the metric expression of those same values, in metric tons that were incorrectly converted in the original specifications that published January 2, 2009 (74 FR 29). Moreover, pursuant to 5 U.S.C. 553(d), the Assistant Administrator finds good cause to waive the 30-day delay in effective date for the reasons given above. Delaying the rule for 30 days may negatively impact fishermen accustomed to referring to the metric system of measurement because the values for the aforementioned harvest levels were incorrectly converted from the English system of measurement in the final specifications. The immediate publication of the correct information will rectify any confusion on the matter of what the metric expression of the 2009 scup and black sea bass harvest levels should be.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

This final rule is exempt from review under Executive Order 12866.

Correction

Accordingly, the final rule FR Doc. E8–31236, published on January 2, 2009 (74 FR 29), is corrected as follows:

1. On page 32:

a. In the first column, in the last paragraph, in the seventh line, ''(5, 339–mt) scup Total Allowable Catch'' is corrected to read ''(5,307- mt) , scup Total Allowable Catch'' and in the second column, in the last paragraph, in the second line, ''(5,796–mt) scup TAC'' is corrected to read ''(7,049 -mt) scup TAC'', and in the third line, ''(4,170–mt) scup TAL.''is corrected to read ''(5,071-mt) scup TAL''.

b. In the third column, in the seventh line, ''commercial quota of 8,373,848 lb (3,123 mt) is corrected to read ''commercial quota of 8,373,848 lb (3,798 mt) and in the eighth and ninth lines, ''recreational harvest limit of 2,585,952 lb (965 mt).'' is corrected to read ''recreational harvest limit of 2,585,952 lb (1, 173 mt).''

2. On page 35, in the first column, in the fourth line, ''(1,048–mt) black sea bass TAL.'' is corrected to read ''(495–mt) black sea bass TAL.''

Dated: March 23, 2009

Samuel D. Rauch III,

Deputy Assistant Administrator For Regulatory Programs, National Marine Fisheries Service.

[FR Doc. E9–6898 Filed 3–26–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 080103016–9316–02]

RIN 0648–AW40

Fisheries of the Exclusive Economic Zone Off Alaska; Revise Maximum Retainable Amounts of Groundfish Using Arrowtooth Flounder as a Basis Species in the Gulf of Alaska

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

ACTION: Final rule.

SUMMARY: NMFS issues a regulation to revise the maximum retainable amounts

(MRAs) of groundfish using arrowtooth flounder as a basis species in the Gulf of Alaska. This action increases the MRAs from 0 percent to 20 percent for deep–water flatfish, rex sole, flathead sole, shallow–water flatfish, Atka mackerel, and skates; from 0 percent to 5 percent for aggregated rockfish; and from 0 percent to 1 percent for sablefish. The intended effect of this action is to reduce regulatory discards of otherwise marketable groundfish in the arrowtooth flounder fishery. This action is intended to promote the goals and objectives of the Magnuson–Stevens Fishery Conservation and Management Act, the Fishery Management Plan for Groundfish of the Gulf of Alaska, and other applicable law.

DATES: Effective March 27, 2009.

ADDRESSES: Copies of the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) prepared for this action are available from the Alaska Region website at *http://www.fakr.noaa.gov/sustainablefisheries.htm*. Printed copies may be obtained from the Alaska Region NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Sebastian.

FOR FURTHER INFORMATION CONTACT: Tom Pearson, 907–481–1780.

SUPPLEMENTARY INFORMATION:

Background

NMFS manages the groundfish fisheries in the exclusive economic zone in the Gulf of Alaska (GOA) under the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). The North Pacific Fishery Management Council (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 and 679.

Regulations at § 679.20(e) establish maximum retainable amount (MRA) percentages for groundfish species and species groups. These MRA percentages establish the amount of a species closed to directed fishing that may be retained onboard a vessel, relative to the amounts of other groundfish open to directed fishing retained onboard the vessel. MRA percentages serve as a management tool to slow down the rate of harvest and reduce the incentive for targeting a species closed to directed fishing. MRAs also allow for retention of incidentally caught species instead of requiring regulatory discards of species closed to directed fishing. MRA percentages do not reflect a natural incidental catch rate, but rather, reflect a balance between the recognized need to slow harvest rates, minimize the potential for discards, and, in some cases, provide an increased opportunity to harvest available total allowable catch (TAC) through limited targeting activity.

In October 2006, the Council received a proposal from industry to increase the MRAs for several groundfish species using arrowtooth flounder as a basis species because arrowtooth flounder is now a viable target fishery. Effort by the trawl fleet to improve retention of groundfish species is constrained by the current MRAs. In addition, to support the increased catch of arrowtooth flounder, the annual TAC for arrowtooth flounder was increased from 5,000 mt to 8,000 mt in the Western GOA in 2001 and has remained at that level since then. The arrowtooth flounder TAC was increased from 25,000 mt to 30,000 mt in the Central GOA in 2007 and remained at that level in 2008. Total catch of arrowtooth flounder in the GOA, including both directed fishing and incidental catch in other groundfish fisheries, has increased from 16,247 mt in 1997 to 25,340 mt in 2007. Over the same period the retention of arrowtooth flounder in all trawl fisheries has increased from 18 percent to 58 percent of the total catch of arrowtooth flounder in the GOA, an indication of a growing market for arrowtooth flounder. In the 2006 directed arrowtooth flounder fishery in the GOA, 82 percent of arrowtooth flounder catch was retained.

The Council took final action in October 2007, and selected the industry's proposal as its preferred alternative. This final rule revises the GOA Retainable Percentages listed in Table 10 to part 679 to increase the MRAs for selected groundfish species using arrowtooth flounder as a basis species. The MRAs for deep–water flatfish, rex sole, flathead sole, shallow–water flatfish, Atka mackerel, and skates is increased from 0 percent to 20 percent; the MRA for aggregated rockfish is increased from 0 percent to 5 percent; and the MRA for sablefish is increased from 0 percent to 1 percent. The MRAs for pollock, Pacific cod, (other species,(and forage fish using arrowtooth flounder as a basis species are unchanged.

The Environmental Assessment prepared for this action concluded that the proposed increase of the MRAs for selected species of groundfish using arrowtooth flounder as a basis species would not affect any groundfish stock or any other component of the physical or biological environment. Under this final rule, the MRAs for groundfish in the arrowtooth flounder fishery are increased from current levels and greater amounts of groundfish closed to directed fishing may be retained in the arrowtooth flounder fishery instead of discarded. However, even though the amounts of groundfish retained in the arrowtooth flounder fishery could increase, total removals of each species would still be within the TAC levels for each species and would be further constrained by halibut PSC limitations that often close directed fishing for groundfish by vessels using trawl gear. The impacts of the harvest strategies and resulting TAC amounts were analyzed in the 2007 Alaska Groundfish Harvest Final Specifications Environmental Impact Statement available at *http://www.fakr.noaa.gov*. Further information on the background of this final rule may be found in the proposed rule for this action (73 FR 71592 November 25, 2008). Comments on the proposed rule were invited and accepted through December 26, 2008.

Response to Comments

NMFS received two letters of comment on the proposed rule. One in opposition to the proposed rule from a private citizen and one in support of the proposed rule from the Alaska Groundfish Data Bank. A summary of those comments and NMFS's responses follow.

Comment 1: The commenter opposed any increase in the amount of fish allowed to be caught.

Response: Revising the MRAs in the GOA arrowtooth flounder fishery does not increase the total amount of any groundfish species that may be harvested in the GOA groundfish fisheries. Those catch limits are established through the annual specifications process and remain the limit on total catch. This regulatory amendment allows greater retention of species caught incidentally in the GOA arrowtooth flounder fishery and is intended to reduce regulatory discards and increase utilization of groundfish species already caught. All catch of groundfish or prohibited species in the arrowtooth flounder fishery that is reported or estimated to be caught using observer data will be subtracted from the total allowable catch for those species and fisheries will be closed by NMFS once those limits are reached.

Comment 2: The processor and shoreside trawl members of the Alaska Groundfish Data Bank support this proposed rule to revise the maximum retainable amounts in the GOA arrowtooth flounder fishery.

Response: NMFS acknowledges the comment and its support for this action. This final rule revises the MRAs for

groundfish in the GOA arrowtooth flounder fishery as described in the proposed rule.

This final rule revises § 679.20(f)(2) to remove the prohibition that arrowtooth flounder not be used as a basis species to calculate retainable amounts of other groundfish species.

This final rule reflects revisions to Table 10 that have occurred since the proposed rule's publication in the **Federal Register**. Table 10 was revised by a final rule that implemented a variety of recordkeeping and reporting regulatory amendments (73 FR 76136; December 15, 2008) and a final rule that implemented Amendments 73/77 to revise the management authority for dark rockfish in the BSAI and GOA (73 FR 80307, December 31, 2008).

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson–Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the FMP, other provisions of the Magnuson–Stevens Act, and other applicable laws.

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

A final regulatory flexibility analysis (FRFA) was prepared. The FRFA incorporates the initial regulatory flexibility analysis (IRFA), and provides a summary of the analyses completed to support the action. A copy of this analysis is available from NMFS (see **ADDRESSES**). The need for and objectives of this action are described in the background section of this final rule. No comments were received on the IRFA or on the economic effects of the rule.

The Small Business Administration has defined all fish–harvesting or hatchery businesses that are independently owned and operated, not dominant in their field of operation, and have annual receipts less than $4.0 million as small businesses. In addition, seafood processors with 500 employees or fewer, wholesale industry members with 100 employees or fewer, not–for–profit–enterprises, and government jurisdictions with a population of 50,000 or less are considered small entities. NMFS has determined that a ''substantial number'' of small entities would generally be 20 percent of the total universe of small entities affected by the regulation. A regulation would have a ''significant negative impact'' on these small entities if it reduced annual gross revenues by more than 5 percent, increased total costs of production by more than 5 percent or resulted in compliance costs for small entities by at least 10 percent compared with compliance costs as a percent of sales for large entities.

The FRFA estimated that 18 trawl catcher vessels participating in the arrowtooth flounder fishery qualify as ''small entities'' for purposes of the Regulatory Flexibility Act. None of the catcher/processors participating in the arrowtooth flounder fishery qualify as small entities.

Three alternatives were analyzed for their impact. Alternative 1, the status quo or no action alternative, would leave the MRAs for groundfish in the arrowtooth flounder fishery unchanged from current levels, and would continue to require fishermen to discard otherwise marketable groundfish. Alternative 2, the Council(s preferred alternative brought forward as a proposal from the industry, would increase the MRAs for some species of groundfish in the arrowtooth flounder fishery in order to reduce discards of otherwise marketable fish without raising allocation concerns with respect to pollock, Pacific cod, rockfish, and sablefish. Alternative 3, developed by NMFS and Council staff, would increase the MRAs for groundfish species caught in the arrowtooth flounder fishery to levels estimated to cover incidental catch of these species. Under Alternative 3 the MRAs for deep–water flatfish (5 percent), rex sole (10 percent), flathead sole (15 percent), shallow–water flatfish (5 percent), Atka mackerel (5 percent), and skates (10 percent) would be lower than the 20 percent proposed under Alternative 2. Alternatives 2 and 3 would provide an opportunity to retain additional, economically valuable groundfish species in the arrowtooth flounder directed fishery. This would be beneficial to the affected small entities. The benefits to small entities under Alternative 2, the preferred alternative, would be slightly greater than under Alternative 3. No negative impacts on small entities are associated with either Alternative 2 or 3.

This regulation does not impose new recordkeeping and reporting requirements on the regulated small entities.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions that a small entity is required to take to comply with a rule or group of rules.

The preamble to the proposed rule and this final rule fully explain the regulatory amendments that will be implemented to increase the MRAs for selected groundfish species in the GOA arrowtooth flounder fishery. The proposed rule, final rule, and regulations governing the groundfish fisheries off Alaska, particularly Table 10 to 50 CFR part 679, are the best source of information about how to comply with these revised MRAs and, therefore, collectively they represent the small entity compliance guide for this final rule. These documents are available from NMFS (see **ADDRESSES**) and from the NMFS Alaska Region's website at *http://alaskafisheries.noaa.gov*. The revised version of Table 10 to 50 CFR also is published at the end of this final rule.

The Assistant Administrator for Fisheries, NOAA, finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). Revisions to the maximum retainable amounts of selected groundfish in the GOA arrowtooth flounder fishery relieve a restriction on fishermen participating in this fishery, and would not place any restriction on other components of the fishery. This action will allow increased retention of selected species of groundfish closed to directed fishing in the arrowtooth flounder fishery in the GOA which would otherwise be required by regulation.

This final rule contains no additional collection–of–information requirements subject to review and approval by OMB under the Paperwork Reduction Act.

The analysis did not reveal any Federal rules that duplicate, overlap, or conflict with the final action.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries.

Dated: March 24, 2009.

Samuel D. Rauch III

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108–447.

■ 2. In § 679.20 the first sentence of paragraph (f)(2) is revised to read as follows:

§ 679.20 General limitations.

* * * * *

(f) * * *

(2) *Retainable amounts.* Any groundfish species for which directed fishing is closed may not be used to calculate retainable amounts of other groundfish species. * * *

* * * * *

■ 3. Table 10 to 50 CFR part 679 is revised to read as follows:

BILLING CODE 3510–22–S

Table 10 to Part 679--Gulf of Alaska Retainable Percentages

BASIS SPECIES		INCIDENTAL CATCH SPECIES (for DSR caught on catcher vessels in the SEO, see § 679.20 (j)[6])														
Code	Species	Pollock	Pacific cod	DW flat[2]	Rex sole	Flathead sole	SW Flat [3]	Arrowtooth	Sablefish	Aggregated rockfish[8]	SR/RE ERA [1]	DSR SEO (C/Ps only) [6]	Atka mackerel	Aggregated forage fish[10]	Skates [11]	Other species [7]
110	Pacific cod	20	n/a[9]	20	20	20	20	35	1	5	[1]	10	20	2	20	20
121	Arrowtooth	5	5	20	20	20	20	n/a	1	5	0	0	20	2	20	20
122	Flathead sole	20	20	20	20	n/a	20	35	7	15	7	1	20	2	20	20
125	Rex sole	20	20	20	n/a	20	20	35	7	15	7	1	20	2	20	20
136	Northern rockfish	20	20	20	20	20	20	35	7	15	7	1	20	2	20	20
141	Pacific ocean perch	20	20	20	20	20	20	35	7	15	7	1	20	2	20	20
143	Thornyhead	20	20	20	20	20	20	35	7	15	7	1	20	2	20	20
152/ 151	Shortraker/ rougheye [1]	20	20	20	20	20	20	35	7	15	n/a	1	20	2	20	20
193	Atka mackerel	20	20	20	20	20	20	35	1	5	[1]	10	n/a[9]	2	20	20
270	Pollock	n/a	20	20	20	20	20	35	1	5	[1]	10	20	2	20	20
710	Sablefish	20	20	20	20	20	20	35	n/a	15	7	1	20	2	20	20
Flatfish, deep-water [2]		20	20	n/a	20	20	20	35	7	15	7	1	20	2	20	20
Flatfish, shallow-water [3]		20	20	20	20	20	n/a	35	1	5	[1]	10	20	2	20	20
Rockfish, other [4]		20	20	20	20	20	20	35	7	15	7	1	20	2	20	20
Rockfish, pelagic [5]		20	20	20	20	20	20	35	7	15	7	1	20	2	20	20
Rockfish, DSR-SEO [6]		20	20	20	20	20	20	35	7	15	7	n/a	20	2	20	20
Skates[11]		20	20	20	20	20	20	35	1	5	[1]	10	20	2	n/a	20
Other species [7]		20	20	20	20	20	20	35	1	5	[1]	10	20	2	20	n/a
Aggregated amount of non-groundfish species[12]		20	20	20	20	20	20	35	1	5	[1]	10	20	2	20	20

Notes to Table 10 to Part 679					
1	Shortraker/rougheye rockfish				
		SR/RE	shortraker rockfish (152)		
			rougheye rockfish (151)		
		SR/RE ERA	shortraker/rougheye rockfish in the Eastern Regulatory Area (ERA).		
	Where numerical percentage is not indicated, the retainable percentage of SR/RE is included under Aggregated Rockfish				
2	Deep-water flatfish	Dover sole, Greenland turbot, and deep-sea sole			
3	Shallow-water flatfish	Flatfish not including deep-water flatfish, flathead sole, rex sole, or arrowtooth flounder			
4	Other rockfish	Western Regulatory Area	means slope rockfish and demersal shelf rockfish		
		Central Regulatory Area			
		West Yakutat District			
		Southeast Outside District	means slope rockfish		
		Slope rockfish			
		S. aurora (aurora)	*S. variegatus* (harlequin)	*S. brevispinis* (silvergrey)	
		S. melanostomus (blackgill)	*S. wilsoni* (pygmy)	*S. diploproa* (splitnose)	
		S. paucispinis (bocaccio)	*S. babcocki* (redbanded)	*S. saxicola* (stripetail)	
		S. goodei (chilipepper)	*S. proriger* (redstripe)	*S. miniatus* (vermilion)	
		S. crameri (darkblotch)	*S. zacentrus* (sharpchin)	*S. reedi* (yellowmouth)	
		S. elongatus (greenstriped)	*S. jordani* (shortbelly)		
	In the Eastern GOA only, Slope rockfish also includes *S. polyspinous*. (northern)				
5	Pelagic shelf rockfish	*S. variabilis* (dusky)	*S. entomelas* (widow)	*S. flavidus* (yellowtail)	
6	Demersal shelf rockfish (DSR)	*S. pinniger* (canary)	*S. maliger* (quillback)	*S. ruberrimus* (yelloweye)	
		S. nebulosus (china)	*S. helvomaculatus* (rosethorn)		
		S. caurinus (copper)	*S. nigrocinctus* (tiger)		
		DSR-SEO = Demersal shelf rockfish in the Southeast Outside District (SEO) The operator of a catcher vessel that is required to have a Federal fisheries permit, or that harvests IFQ halibut with hook and line or jig gear, must retain and land all DSR that is caught while fishing for groundfish or IFQ halibut in the SEO. Limits on sale and requirements for disposal of DSR are set out at § 679.20 (j).			
7	Other species	sculpins	octopus	sharks	squid
8	Aggregated rockfish	Means rockfish as defined at § 679.2 except in:			
		Southeast Outside District	where DSR is a separate category for those species marked with a numerical percentage		
		Eastern Regulatory Area	where SR/RE is a separate category for those species marked with a numerical percentage		

Notes to Table 10 to Part 679

9	n/a	not applicable	
10	Aggregated forage fish (all species of the following taxa)		
		Bristlemouths, lightfishes, and anglemouths (family *Gonostomatidae*)	209
		Capelin smelt (family *Osmeridae*)	516
		Deep-sea smelts (family *Bathylagidae*)	773
		Eulachon smelt (family *Osmeridae*)	511
		Gunnels (family *Pholidae*)	207
		Krill (order *Euphausiacea*)	800
		Laternfishes (family *Myctophidae*)	772
		Pacific herring (family *Clupeidae*)	235
		Pacific Sand fish (family *Trichodontidae*)	206
		Pacific Sand lance (family *Ammodytidae*)	774
		Pricklebacks, war-bonnets, eelblennys, cockscombs and Shannys (family *Stichaeidae*)	208
		Surf smelt (family *Osmeridae*)	515
11	Skates Species and Groups		
		Big Skates	702
		Longnose Skates	701
		Other Skates	700
12	Aggregated non-groundfish	All legally retained species of fish and shellfish, including IFQ halibut, that are not listed as FMP groundfish in Tables 2a and 2c to this part.	

[FR Doc. E9–6892 Filed 3–26–09; 8:45 am]

BILLING CODE 3510–22–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 080612764–9304–02]

RIN 0648–AW94

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish Fisheries of the Bering Sea and Aleutian Islands Management Area and Gulf of Alaska, Seabird Avoidance Requirements Revisions for International Pacific Halibut Commission Regulatory Area 4E

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule that revises the seabird avoidance requirements for the hook–and–line groundfish and halibut fisheries in International Pacific Halibut Commission Area 4E. The final rule eliminates seabird avoidance requirements for hook–and–line vessels less than or equal to 55 ft (16.8 m) length overall in portions of Area 4E in the eastern Bering Sea. This action is necessary to revise seabird avoidance measures based on the latest scientific information and to reduce unnecessary regulatory burdens and associated costs.

DATES: Effective April 27, 2009.

ADDRESSES: Copies of the map of the seabird avoidance measures in Area 4E, and the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) for this action may be obtained from NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Sebastian or from the Alaska Region NMFS website at *http://www.alaska* fisheries.noaa.gov.

FOR FURTHER INFORMATION CONTACT: Melanie Brown, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fisheries in the exclusive economic zone (EEZ) off Alaska are managed under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs). The North Pacific Fishery Management Council (Council) prepared the FMPs under the authority of the Magnuson–Stevens Fishery Conservation and Management Act (Magnuson–Stevens Act), 16 U.S.C. 1801, *et seq.* Regulations implementing the FMPs appear at 50 CFR part 679. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

Management of the Pacific halibut fisheries in and off Alaska is governed by an international agreement between Canada and the United States. This agreement, entitled the ''Convention Between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea'' (Convention), was signed at Ottawa, Canada, on March 2, 1953, and was amended by the ''Protocol Amending the Convention,'' signed at Washington, D.C., March 29, 1979. The Convention is implemented in the United States by the Northern Pacific Halibut Act of 1982 (Halibut Act). The directed commercial Pacific halibut fishery in Alaska is managed under an individual fishing quota (IFQ) program, as is the fixed gear sablefish fishery. The IFQ Program is a limited access management system. This program is codified at 50 CFR part 679.

Background

The purpose of this action is to revise the seabird avoidance measures currently implemented for the hook–and–line groundfish and halibut fisheries based on the best available information regarding seabird occurrence and potential fishing vessel interactions. Seabird avoidance measures reduce the incidental mortality of seabirds in the hook–and–line fisheries off Alaska. Since 1997, NMFS has implemented and revised seabird avoidance measures to mitigate interactions between the federal hook–and–line fisheries and seabirds (62 FR 23176, April 29, 1997; 63 FR 11161, March 6, 1998; 69 FR 1930, January 13, 2004; and 72 FR 71601, December 18, 2007).

A detailed description of the information used to support this action, map of the area, and the reasons for the specific details of the regulatory amendments are in the proposed rule (74 FR 2984, January 16, 2009). The map is reproduced in this rule (See Figure 1).

Regulatory Amendments

In June 2008, the Council unanimously recommended revisions to the seabird avoidance measures in a portion of Area 4E. These measures apply to operators of vessels using hook–and–line gear for Pacific halibut in the IFQ and Community Development Quota (CDQ) management programs in waters from 0 nm to 200 nm; for IFQ sablefish in waters from 0 nm to 200 nm; and for groundfish in the EEZ.

This final rule reorganizes and revises § 679.24(e)(3) and Table 20 to part 679 to clarify existing regulatory text and to eliminate unnecessary seabird avoidance gear requirements for all hook–and–line vessels less than or equal to 55 ft (16.8 m) LOA fishing in Area 4E, except in the southern portion of Area 4E as shown in Figure 1. Hook–and–line vessels fishing in the portion of Area 4E south of 60 degrees N latitude and west of 160 degrees W longitude continue to be required to use seabird avoidance measures.

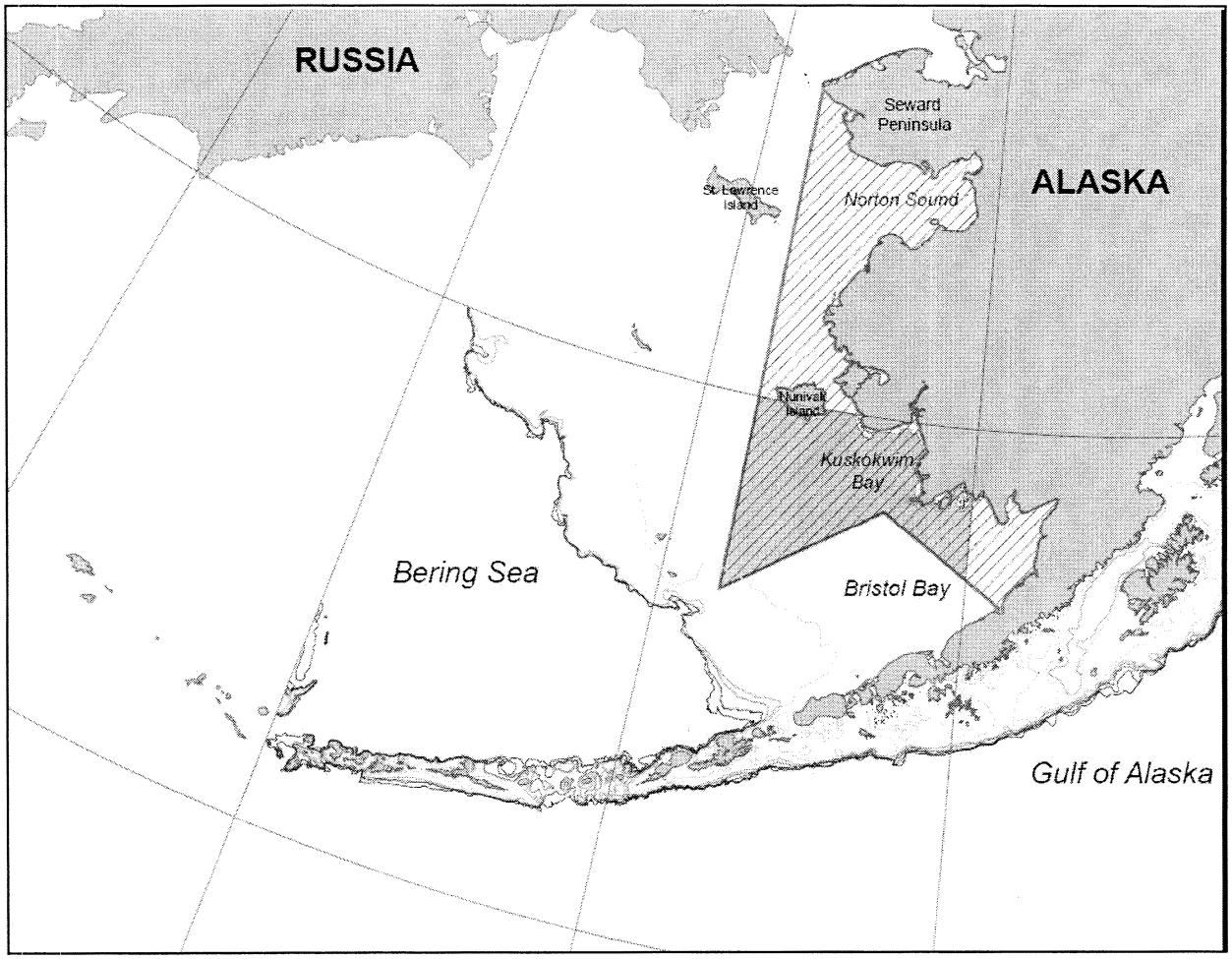

Figure 1. International Pacific Halibut Commission Regulatory Area 4E is shown as the striated area.

Notes: Hook–and–line vessels > 26 ft (7.9 m) LOA fishing in the shaded portion of the striated area are required to continue using seabird avoidance measures. In the striated area of Area 4E, vessels > 26 ft (7.9 m) to 55 ft (16.8 m) are exempt from seabird avoidance measures, and vessels > 55 ft (16.8 m) continue to use seabird avoidance measures. Vessels ≤ 26 ft (7.9 m) continue to be exempt from seabird avoidance measures throughout all of Area 4E.

The best available scientific information regarding seabird observations in the Area 4E indicates that ESA–listed seabirds and other seabird species of concern are not likely to occur in Area 4E, except for the southern portion where seabird avoidance measures continue to be required. Therefore, the final rule eliminates seabird avoidance measures where interactions with seabird species of concern are not likely to occur and ensures that such measures are used in waters where interactions with seabird species of concern are likely to occur. Table 19 to part 679 also is revised to correct cross references. Under the descriptions for the seabird avoidance gear and other methods, the reference to § 679.24(e)(5) is corrected to read § 679.24(e)(4).

Comments and Responses

NMFS received no comments on the proposed rule (74 FR 2984, January 16, 2009). No substantive changes were made in the final rule from the proposed rule. Minor editorial changes were made to Tables 19 and 20 and to § 679.24(e)(3)(i).

Classification

The Administrator, Alaska Region, NMFS, determined that the final rule is necessary for the conservation and management of the groundfish fisheries and that it is consistent with the Magnuson–Stevens Act, the Halibut Act, and other applicable laws.

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

A final regulatory flexibility analysis (FRFA) was prepared. The FRFA describes the economic impact of this final rule on small entities. The FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant issues raised by the public comments in response to the IRFA, NMFS' responses to those comments, and a summary of the analyses completed to support the action. Descriptions of the action, the reasons it is under consideration, and its objectives and legal basis are included earlier in the preamble and in the SUMMARY section of the preamble. A copy of the FRFA is available from NMFS (see **ADDRESSES**).

The IRFA was described in the classification section to the proposed rule (74 FR 2984, January 16, 2009), and the public was notified of how to obtain a copy of the IRFA. The public comment period ended on February 17, 2009. No comments were received on the IRFA or on the economic impacts of the rule.

The vessels that fish for groundfish or halibut with hook–and–line gear in the waters off Alaska would be directly regulated by this action. The seabird avoidance measures presently in place, and the alternatives and options considered, apply directly to the operator of a vessel deploying hook–and–line gear in the waters off Alaska.

These regulations apply to the operation of a vessel and not directly to the halibut or sablefish IFQ–holder unless the holder is also the owner/operator of a vessel. Multiple IFQs may be used on a single vessel. Thus, the IRFA analysis of large and small entities is conducted at the vessel level and not the IFQ level. This analysis is complicated by the fact that the halibut fishery is managed somewhat separately from the Federal groundfish fisheries, resulting in multiple data sources being synthesized for the analysis. Thus, data from multiple sources and years have been used to estimate the numbers of large and small entities.

Approximately 70 vessels ranging between 26 ft (7.9 m) and 55 ft (16.8 m) LOA, participated in the CDQ Pacific halibut fishery in Area 4E. The 70 vessels that fished in the CDQ halibut fishery in Area 4E are mostly small vessels, 66 are less than 33 ft (10.1 m) LOA. These small vessels fish in the salmon and herring fisheries in the Bristol Bay and Togiak Bay areas of Alaska. None of the 70 vessels harvest groundfish in other Federal fisheries; thus, comprehensive annual revenue data are not available for these vessels in the way that they are for vessels that participate in Federal groundfish fisheries. However, given the small size of these vessels and the small scale of the fisheries they participate in, it is not expected that any of these vessels would earn more than $4 million in annual revenue. Thus, these 70 vessels are believed to be small entities, as defined by Small Business Administration criteria.

Comprehensive annual revenue data, from all sources, are available for the 92 vessels that participated in the Federal hook–and–line groundfish fisheries in the Bering Sea and Aleutian Islands management area in 2006. In 2006, 52 hook and line catcher vessels (CVs) and 6 hook–and–line catcher processors (CPs) reported that they caught and processed less than $4 million in gross ex–vessel or gross first wholesale product value. Thus, these 58 vessels are considered small entities.

In total, this analysis has identified 128 vessels that are believed to be directly regulated small entities. A review of American Fisheries Act (AFA) permit data revealed that none of the 128 vessels with gross revenue less than $4 million in 2006 are AFA–permitted vessels. Because AFA affiliations are relatively stable across years, none of these vessels are large because of AFA affiliations.

This regulation does not impose new recordkeeping and reporting requirements on the regulated small entities.

The FRFA did not reveal any Federal rules that duplicate, overlap, or conflict with the action.

The Council considered four alternatives and two options for this action. Alternative 1 is the status quo, which would require the continued use of seabird avoidance measures for all hook–and–line vessels fishing for groundfish or halibut in the federal waters of Area 4E. This alternative would not provide economic relief; and therefore, does not meet the objectives of this action.

Alternative 2 would exempt hook–and–line vessels 26 ft (7.9 m) to 32 ft (9.8 m) LOA from seabird avoidance measures while fishing for groundfish or halibut in Area 4E. This alternative would provide economic relief only to vessels in this size class, partially meeting the objectives of the action for the hook–and–line fleet.

Alternative 3 (preferred) exempts hook–and–line vessels 26 ft (7.9 m) to 55 ft (16.8 m) LOA from seabird avoidance measures while fishing for groundfish or halibut in Area 4E. This alternative provides more economic relief to the hook–and–line fleet than Alternatives 1 and 2.

Alternative 4 would exempt all hook–and–line vessels from seabird avoidance measures while fishing for groundfish or halibut in Area 4E. This alternative would provide the most economic relief to the hook–and–line fleet compared to the other alternatives, but the economic relief in comparison to Alternative 3 is not likely a large difference. Very few vessels over 55 ft (16.8 m) LOA participate in the hook–and–line fishery in Area 4E, and the larger vessels have the capability to use seabird avoidance gear based on larger deck space, adequate superstructure, and available crew.

Two options were also considered for this action. Option 1 (preferred) requires full compliance with the seabird avoidance measures inside the shaded portion of Area 4E, as shown in Figure 1 of the proposed rule (74 FR 2984, January 16, 2009), while option 2 would require only the use of a buoy bag in the shaded area. Option 1 would require more costs to deploy seabird avoidance gear that meets the streamer standards than option 2, which required a buoy bag with no standards and no supporting superstructure for streamer lines. Because the buoy bag is not likely as effective as the streamer lines, option 1 is more protective of short–tailed albatross and other seabirds that may occur in the shaded area shown in Figure 1.

The preferred action is Alternative 3 with option 1, which provides more economic relief than Alternatives 1 or 2 with option 1. Alternative 3 and option 1 were selected because most of the vessels participating in the hook–and–line fishery in Area 4E are less than 55 ft (16.8 m) LOA. The use of seabird avoidance gear on these vessels can be difficult because of limited deck space for the gear or the lack of superstructure to support the streamer lines. Smaller vessels also are likely to have fewer crew members available to handle the gear. Only Alternative 4 has smaller economic impacts on the directly regulated small entities than Alternative 3. Because very few large vessels participate in the Area 4E fishery, Alternative 4 is not likely to provide much more economic relief than Alternative 3. Alternative 4 was not chosen because larger vessels are more likely to have adequate deck space, superstructure, and crew available to allow for safe and effective use of seabird avoidance gear. Because of the presence of short–tailed albatross in the shaded area of Figure 1, the Council recommended option 1 for vessels fishing in this area to ensure the continued protection of short–tailed albatross from potential incidental takes by any hook–and–line vessel. Option 1 has a marginally greater potential adverse economic impact on directly regulated small entities than does option 2, but option 1 more fully achieves the objectives of the action and is necessary for the protection of short–tailed albatross and other seabirds that may occur in the shaded area of Figure 1 of the proposed rule, making it more compliant with other applicable law (e.g., Endangered Species Act).

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, NMFS Alaska Region has developed a website that provides easy access to details of this final rule, including links to the final rule, sources for seabird avoidance gear, and a history of seabird avoidance measures in the Alaska fisheries. The relevant information available on the website is the Small Entity Compliance

Guide. The website address is *http://www.fakr.noaa.gov/protectedresources/seabirds.htm*. Copies of this final rule are available upon request from the NMFS, Alaska Regional Office (see **ADDRESSES**).

An informal consultation with the U. S. Fish and Wildlife Service (FWS) under the Endangered Species Act was concluded for this action on September 15, 2008. As a result of the informal consultation, NMFS determined that fishing activities under this rule are not likely to adversely affect endangered or threatened species or their designated critical habitat. The FWS concurred with this determination.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: March 23, 2009.

John Oliver

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

■ For reasons set out in the preamble, NMFS amends 50 CFR part 679 as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108 447.

■ 2. In § 679.24, redesignate paragraphs (e)(3)(i) and (e)(3)(ii) as paragraphs (e)(3)(ii) and (e)(3)(iii), respectively; add new paragraph (e)(3)(i); and revise paragraph (e)(3) introductory text to read as follows:

§ 679.24 Gear limitations.

* * * * *

(e) * * *

(3) *Seabird avoidance gear requirements.* (See also Table 20 to this part.)

(i) The operator of a vessel identified in paragraph (e)(1) of this section must comply with paragraph (e)(3)(ii) or (e)(3)(iii) of this section while fishing with hook–and–line gear for groundfish, IFQ halibut, CDQ halibut, or IFQ sablefish in Federal waters (EEZ) and for IFQ halibut, CDQ halibut, or IFQ sablefish in the State of Alaska waters, excluding fishing in:

(A) NMFS Reporting Area 649 (Prince William Sound);

(B) State waters of Cook Inlet;

(C) NMFS Reporting Area 659 (Eastern GOA Regulatory Area; Southeast Inside District), but including waters in the areas south of a straight line at 56°17.25 N. lat. between Point Harris and Port Armstrong in Chatham Strait, State statistical areas 325431 and 325401, and west of a straight line at 136°21.17 E. long. from Point Wimbledon extending south through the Inian Islands to Point Lavinia; and

(D) Area 4E with a vessel less than or equal to 55 ft (16.8 m) LOA, but including fishing in waters south of 60°00.00 N. lat. and west of 160°00.00 W. long.

* * * * *

■ 3. Tables 19 and 20 to part 679 are revised to read as follows:

TABLE 19 TO PART 679—SEABIRD AVOIDANCE GEAR CODES

VESSEL LOGBOOK	
CODE	SEABIRD AVOIDANCE GEAR OR METHOD.
1	*Paired Streamer Lines:* Used during deployment of hook–and–line gear to prevent birds from taking hooks. Two streamer lines used, one on each side of the main groundline. Each streamer line consists of three components: a length of line, streamers attached along a portion of the length and one or more float devices at the terminal end. See performance and material standards at § 679.24(e)(4)(iii).
2	*Single Streamer Line:* Used during deployment of hook–and–line gear to prevent birds from taking hooks. The streamer line consists of three components: a length of line, streamers attached along a portion of the length and one or more float devices at the terminal end. See performance and material standards at § 679.24(e)(4)(ii).
3	*Single Streamer Line, used with Snap Gear:* Used during the deployment of snap gear to prevent birds from taking hooks. The streamer line consists of three components: a length of line, streamers attached along a portion of the length and one or more float devices at the terminal end. See performance and material standards at § 679.24(e)(4)(iv).

TABLE 19 TO PART 679—SEABIRD AVOIDANCE GEAR CODES—Continued

VESSEL LOGBOOK	
CODE	SEABIRD AVOIDANCE GEAR OR METHOD.
4	*Buoy Bag Line:* Used during the deployment of hook–and–line gear to prevent birds from taking hooks. A buoy bag line consists of two components: a length of line (without streamers attached) and one or more float devices at the terminal end. See performance and material standards at § 679.24(e)(4)(i).
Other Device used in conjunction with Single Streamer Line or Buoy Bag Line	
5	*Add weights to groundline:* Applying weights to the groundline for the purpose of sinking the hook–and–line gear more quickly and preventing seabirds from accessing the baited hooks.
6	*Additional Buoy Bag Line or Single Streamer Line:* Using a second buoy bag line or streamer line for the purpose of enhancing the effectiveness of these deterrent devices at preventing seabirds from accessing baited hooks.
7	*Strategic Offal Discharge:* Discharging fish, fish parts (i.e., offal) or spent bait for the purpose of distracting seabirds away from the main groundline while setting gear.
Additional Device Used	
8	*Night Fishing:* Setting hook–and–line gear during dark (night time hours).
	Line Shooter: A hydraulic device designed to deploy hook–and–line gear at a speed slightly faster than the vessel's speed during setting.
	Lining Tube: A device used to deploy hook–and–line gear through an underwater–setting device.
	Other (Describe)
9	No Deterrent Used Due to Weather. [See weather exceptions at § 679.24(e)(4)(i), (e)(4)(ii)(B), (e)(4)(iii)(B), (e)(4)(iv)(B), and (e)(4)(v).]
0	No Deterrent Used.

TABLE 20 TO PART 679—SEABIRD AVOIDANCE GEAR REQUIREMENTS FOR VESSELS, BASED ON AREA, GEAR, AND VESSEL TYPE

(See § 679.24(e) for complete seabird avoidance program requirements; see § 679.24(e)(1) for applicable fisheries.)

If you operate a vessel deploying hook–and–line gear, other than snap gear, in waters specified at § 679.24(e)(3), and your vessel is...	**then you must use this seabird avoidance gear in conjunction with requirements at § 679.24(e)...**
>26 ft to 55 ft LOA and without masts, poles, or rigging	minimum of one buoy bag line
>26 ft to 55 ft LOA and with masts, poles, or rigging	minimum of a single streamer line of a standard specified at § 679.24(e)(4)(ii)
>55 ft LOA	minimum of paired streamer lines of a standard specified at § 679.24(e)(4)(iii)
If you operate a vessel deploying hook–and–line gear and use snap gear in waters specified at § 679.24(e)(3), and your vessel is...	**then you must use this seabird avoidance gear in conjunction with requirements at § 679.24(e)...**
>26 ft to 55 ft LOA and without masts, poles, or rigging	minimum of one buoy bag line
>26 ft to 55 ft LOA and with masts, poles, or rigging	minimum of a single streamer line of a standard specified at § 679.24(e)(4)(iv)
>55 ft LOA	minimum of a single streamer line of a standard specified at § 679.24(e)(4)(iv)
If you operate any of the following hook–and–line vessels...	**then...**
< 32 ft LOA in the State waters of IPHC Area 4E	you are exempt from seabird avoidance measures.
in NMFS Reporting Area 649 (Prince William Sound)	
in State waters of Cook Inlet	
in NMFS Reporting Area 659 (Eastern GOA Regulatory Area, Southeast Inside District), but not including waters in the areas south of a straight line at 56°17.25 N. lat. between Point Harris and Port Armstrong in Chatham Strait, State statistical areas 325431 and 325401, and west of a straight line at 136°21.17 E. long. from Point Wimbledon extending south through the Inian Islands to Point Lavinia	
≤ 55 ft LOA in IPHC Area 4E but not including waters south of 60°00.00 N. lat. and west of 160°00.00 W. long.	

[FR Doc. E9–6894 Filed 3–26–09; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register

Vol. 74, No. 58

Friday, March 27, 2009

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 101, 104, 105, and 106

[Docket No. USCG–2007–28915]

RIN 1625–AB21

Transportation Worker Identification Credential (TWIC)—Reader Requirements

AGENCY: Coast Guard, DHS.

ACTION: Advanced notice of proposed rulemaking.

SUMMARY: This advanced notice of proposed rulemaking discusses the United States Coast Guard's preliminary thoughts on potential requirements for owners and operators of certain vessels and facilities regulated by the Coast Guard under 33 CFR chapter I, subchapter H, for use of electronic readers designed to work with Transportation Worker Identification Credentials (TWIC) as an access control measure. It discusses additional potential requirements associated with TWIC readers, such as recordkeeping requirements for those owners or operators required to use an electronic reader, and amendments to security plans previously approved by the Coast Guard to incorporate TWIC requirements.

This rulemaking action, once final, would enhance the security of ports and vessels by ensuring that only persons who hold valid TWICs are granted unescorted access to secure areas on vessels and port facilities. It would also complete the implementation of the Maritime Transportation Security Act of 2002 transportation security card requirement, as well as the requirements of the Security and Accountability for Every Port Act of 2006, for regulations on electronic readers for use with Transportation Worker Identification Credentials.

DATES: Comments and related material must reach the Docket Management Facility on or before May 26, 2009.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2007–28915 to the Docket Management Facility at the U.S. Department of Transportation. Please note the new address. *See* 72 FR 28092, May 18, 2007. 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.

(5) For comments containing confidential information, business information or sensitive security information, please mail appropriately marked comments to LCDR Jonathan Maiorine, Commandant (CG–544) (RM 5222), U.S. Coast Guard, 2100 2nd Street, SW., Washington, DC 20593.

FOR FURTHER INFORMATION CONTACT: If you have questions on this advanced notice of proposed rulemaking, call LCDR Jonathan Maiorine, Coast Guard, telephone 1–877–687–2243.

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:

Table of Acronyms

AHP Analytical Hierarchy Process
ANPRM Advanced Notice of Proposed Rulemaking
ASPs Alternative Security Programs
TWIC Transportation Worker Identification Credential
CDC Certain Dangerous Cargoes
CI/KR Critical Infrastructure/Key Resource
CRL Certificate Revocation List
DHS Department of Homeland Security
DOT Department of Transportation
EOA Early Operational Assessment
FASC–N Federal Agency Smart Credential—Number
FOIA Freedom of Information Act
FR Final Rule
FSP Facility Security Plan
HSI Homeland Security Institute
ITEP Integrated Test and Evaluation Program
ITT Initial Technical Test
MARSEC Maritime Security
MERPAC Merchant Marine Personnel Advisory Committee
MODU Mobile Offshore Drilling Unit
MSRAM Maritime Security Risk Analysis Model
MTSA Maritime Transportation Security Act
NMSAC National Maritime Security Advisory Committee
NPRM Notice of Proposed Rulemaking
OCS Outer Continental Shelf
OMB Office of Management and Budget
OSVs Offshore Supply Vessels
PACS Personnel Access Control System
PIN Personal Identification Number
PIV Personal Identity Verification
RA Regulatory Analysis
RKB Responder Knowledge Base
SSI Sensitive Security Information
ST&E System Test & Evaluation
TEMP Test and Evaluation Master Plan
TSA Transportation Security Administration
TSAC Towing Safety Advisory Committee
TSI Transportation Security Incident
TWIC Transportation Worker Identification Credential
VSP Vessel Security Plan

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V. Advisory Committee Input
VI. Discussion of Pilot Programs
VII. Regulatory Analyses

I. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting

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

A. Submitting Comments

If you submit a comment, please include your name and address, identify the docket number for this rulemaking (USCG–2007–28915), indicate the specific section of this document to which each comment applies, and give the reason for each comment. 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 the proposed rule in view of them.

B. Handling Confidential Information, Proprietary Information and Sensitive Security Information (SSI) Submitted in Public Comments

Do not submit comments that include trade secrets, confidential commercial or financial information, or sensitive security information (SSI) [1] to the public regulatory docket. Please submit such comments separately from other comments on the rulemaking. Comments containing this type of information should be appropriately marked as containing such information and submitted by mail to the Coast Guard point of contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

Upon receipt of such comments, the Coast Guard will not place the comments in the public docket and will handle them in accordance with applicable safeguards and restrictions on access. The Coast Guard will hold them in a separate file to which the public does not have access, and place a note in the public docket that Coast Guard has received such materials from the commenter. If the Coast Guard receives a request to examine or copy this information, we will treat it as any other request under the Freedom of Information Act (FOIA) (5 U.S.C. 552).

C. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://dms.dot.gov* at any time, enter the docket number for this rulemaking (USCG–2007–28915) in the Search box, and click ''Go >>.'' 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.

D. 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).

E. Public Meeting

Because the Coast Guard intends to hold additional public meetings (*see* Paragraph F ''Future Opportunities for Comment''), we plan to hold only one public meeting in the Washington, DC area at this time. A notice with the specific date and location of the meeting will be published in the **Federal Register** as soon as this information is known. In addition, known interested parties will be contacted via mail, e-mail, or telephone. If you wish to be contacted regarding the public meeting, contact LCDR Jonathan Maiorine, listed under **FOR FURTHER INFORMATION CONTACT**.

F. Future Opportunities for Comment

The Coast Guard intends to publish a Notice of Proposed Rulemaking (NPRM) after reviewing the comments on this Advanced Notice of Proposed Rulemaking (ANPRM), and after receiving data from the TWIC pilot programs (discussed in Section IV ''Discussion of Pilot Programs''). We intend to have an open comment period with sufficient time to allow interested parties to submit comments following publication of an NPRM. We also intend to hold several public meetings during that comment period, at various locations across the country.

II. Summary of ANPRM

This ANPRM presents preliminary thoughts of the Department of Homeland Security, through the U.S. Coast Guard and the Transportation Security Administration, on potential requirements for electronic TWIC readers for certain vessels and facilities that are regulated by the Coast Guard under 33 CFR chapter I, subchapter H, commonly known as ''MTSA-regulated'' vessels and facilities. The purpose of this ANPRM is to open the public dialogue on implementing TWIC reader requirements using a risk-based decision model, as well as to seek input on other requirements that we are considering proposing at the same time as the reader requirements. We are not proposing any specific changes to the Code of Federal Regulations at this time. Specific changes would be proposed in an NPRM at a future date.

This ANPRM discusses separating individual MTSA-regulated vessels, facilities, and Outer Continental Shelf (OCS) facilities into one of three risk groups. Each risk group would have its own associated electronic TWIC reader requirements.

We are considering that those vessels and facilities in the lowest risk group continue to use TWICs primarily as a visual identity badge only, at all Maritime Security (MARSEC) Levels, and subject to electronic verification during inspections and spot checks, as currently required in the joint Coast Guard and TSA final rule on TWIC, issued on January 25, 2007. 72 FR 3492.

At MARSEC Level 1, those in the middle risk group would perform an electronic read of the TWIC to verify its authenticity and to verify the validity of the card (*i.e.,* ensure that it has not been revoked). Owners or operators of these vessels and facilities would match the TWIC-holder's fingerprint to the biometric template stored within the TWIC (*i.e.*, perform a biometric match) at MARSEC Level 1 on dates chosen randomly within a frequency of at least once a month. They would perform the biometric match at each entry at the higher MARSEC Levels.

Those vessels and facilities falling into the highest risk group would perform the biometric match and verify the authenticity and validity of the card at each entry at all MARSEC Levels.

These requirements are summarized in a table, found in Section IV. D. ''Reader Requirements'' and are subject to change based on public comment and

[1] ''Sensitive Security Information'' or ''SSI'' is information obtained or developed in the conduct of security activities, the disclosure of which would constitute an unwarranted invasion of privacy, reveal trade secrets or privileged or confidential information, or be detrimental to the security of transportation. The protection of SSI is governed by 49 CFR part 1520.

additional data collection from the TWIC reader testing pilot program (''pilot program''), which is currently underway as required by the Safety and Accountability for Every Port Act of 2006 (SAFE Port Act), Public Law No. 109–347, 120 Stat. 1884, 1889 (Oct. 13, 2006). For example, we may propose, in an NPRM, to require reader usage at a facility or vessel in Risk Group C, or require more frequent reader usage for those facilities and vessels in Risk Group B. We request comments from the public regarding this process and, in particular, the Risk Group divisions and application of MARSEC Levels to reader requirement frequency.

We are also considering that each risk group have the option of using recurring unescorted access for up to 14 TWIC holders, per vessel or facility, if that provision is included in their amended security plan and approved by the Coast Guard. In order to take advantage of recurring unescorted access, the owner or operator of the vessel or facility would conduct an initial biometric match of the individual against his/her TWIC, either at hiring or upon the effective date of a final rule, whichever occurs later. This biometric match would include a verification of the authenticity and validity of the TWIC. Once this check is done, the TWIC need only be used as a visual identity badge, at a frequency to be approved by the Coast Guard in the amended security plan, so long as the validity of the TWIC is verified periodically, ranging from monthly to daily, depending upon risk group and MARSEC Level. We are specifically seeking comment in this ANPRM as to whether 14 persons is the appropriate number of persons eligible for recurring unescorted access and whether the public believes this process is appropriate for facilitating industry operations while maintaining an appropriate level of port security.

This ANPRM also discusses recordkeeping requirements for those risk groups required to use readers, and for those owners or operators choosing to use recurring unescorted access. It discusses and seeks comment on a requirement for all owners and operators to amend their security plans to incorporate TWIC requirements.

III. Background

A. Statutory History

The principal statutory authority for the TWIC program, the Maritime Transportation Security Act of 2002 (MTSA), Public Law No. 107–295, 116 Stat. 2064 (Nov. 2, 2002), requires the issuance of biometric transportation security cards to Coast Guard credentialed merchant mariners and other workers requiring unescorted access to secure areas of vessels and port facilities. 46 U.S.C. 70105(a)–(f) (2002). The SAFE Port Act, Public Law No. 109–347, 120 Stat. 1884 (Oct. 13, 2006) supplemented various MTSA credentialing requirements. These additional provisions included establishing a port implementation deadline; requiring implementation of a pilot program to test TWIC readers; and setting a deadline for promulgation of final regulations requiring the deployment of TWIC readers that are consistent with the findings of the pilot program. 46 U.S.C. 70105(g)–(m) (2006).

B. Regulatory History

On May 22, 2006, the Coast Guard and TSA issued a joint notice of proposed rulemaking (TWIC 1 NPRM) entitled ''Transportation Worker Identification Credential Implementation in the Maritime Sector; Hazardous Materials Endorsement for a Commercial Driver's License,'' setting forth proposed requirements and processes required by MTSA. 71 FR 29396. The TWIC 1 NPRM proposed amending Coast Guard regulations on vessel and facility security, found in 33 CFR chapter I, subchapter H, to require the use of the TWIC as an access control measure, as well as amendments to TSA regulations on security threat assessment standards. The TWIC 1 NPRM also proposed requiring the use of TWIC in a biometric access control system and user fees for TWIC issued under this rule. The joint final rule (TWIC 1 FR), issued January 25, 2007, under the same title, established the biometric credential requirements, amended knowledge requirements, expanded appeal and waiver provisions, and set the user fee for the TWIC. 72 FR 3492. The TWIC 1 FR did not require card readers. A full discussion of the provisions for the TWIC 1 NPRM and TWIC 1 FR can be found in the preambles of those documents, at the **Federal Register** cites provided in this paragraph.

After publication of the TWIC 1 FR, the Coast Guard issued a Notice of Availability and requested comments on draft TWIC biometric reader specifications and draft TWIC contactless smart card applications, which were both developed by the National Maritime Security Advisory Committee (NMSAC). The Coast Guard and TSA reviewed the comments received and issued a Notice on September 20, 2007, announcing the working technical specification selected for use in the TWIC pilot programs and discussing the comments received in response to the Notice of Availability. 72 FR 53784.

On July 13, 2007, the Coast Guard issued a final rule to delay the compliance date for facility owners and operators wishing to redefine their secure areas, to limit application of the TWIC requirement to those portions of their facility directly connected to maritime transportation. 72 FR 38486. This provision was included in the TWIC 1 FR, and the delay in the compliance date was necessary to allow owners and operators to consider Coast Guard guidance, issued as Navigation and Vessel Inspection Circular 03–07 on July 2, 2007.

On September 28, 2007, the Coast Guard and TSA issued another joint Final Rule to amend provisions of the TWIC 1 FR. 72 FR 55043. This final rule amended the definition of secure areas to address facilities in the Commonwealth of the Northern Mariana Islands; allowed flexibility for additional non-resident aliens to apply for a TWIC; clarified who may obtain a TWIC at a reduced fee; and amended the replacement fee originally announced in TWIC 1 FR.

On May 7, 2008, the Coast Guard and TSA issued a joint final rule to extend the compliance date set forth in the TWIC 1 FR. 73 FR 25562. Under the new final compliance date, mariners must obtain a TWIC no later than April 15, 2009. That date also marks the final date by which owners and operators of vessels, facilities, and OCS facilities, who have not otherwise been required to implement access control procedures utilizing TWIC on an earlier date, must implement those procedures. Owners and operators of vessels, facilities, and OCS facilities should note, however, that in accordance with the TWIC 1 FR the Coast Guard has announced rolling COTP Zone compliance dates in the **Federal Register**.

IV. Discussion of Process

A. Risk-Based Approach to Reader Requirements

This ANPRM discusses three levels of requirements, with vessels and facilities ''assigned'' into a particular level based on risk. We used the Maritime Security Risk Analysis Model (discussed in B. ''Maritime Security Risk Analysis Model (MSRAM) and the Analytic Hierarchy Process (AHP)'') and other factors to rank facilities and vessels as lower versus higher risk. We are considering proposing that those facilities and vessels with the higher risk be required to fully utilize the security features and achieve the full risk reduction benefit of the TWIC, whereas facilities and vessels

at the lower risk level should be required to implement only some of the security features. We have presented the resulting matrix of potential requirements in this document. We are seeking comment not only on these requirements, but also on the risk groups themselves and the method we used to reach those groups, which is discussed in the next section.

B. Maritime Security Risk Analysis Model (MSRAM) and the Analytic Hierarchy Process (AHP)

Three factors were applied to develop a risk-based ranking of all MTSA-regulated facilities and vessels by type. These factors were: The maximum consequence resulting from a terrorist attack, the criticality to the nation's health, economy and national security, and the utility of TWIC in reducing risk. These factors were applied in an AHP (discussed later in this section) to develop an overall ranking of vessel and facility types for which TWIC requirements are assigned.[2]

The first factor applied was the maximum potential consequence resulting from the total destruction of the vessel or facility. We developed this factor by using the Coast Guard's MSRAM application.

MSRAM is a terrorism risk analysis tool used to perform risk assessments on critical infrastructure and key resources in the maritime domain given a range of terrorist attack scenarios. The tool's purpose is to capture and rank the security risk facing different types of potential terrorist targets (*e.g.*, waterfront facilities, vessels, bridges and other infrastructure) spanning all Critical Infrastructure/Key Resource (CI/KR) sectors in our nation's ports and on our waterways. An initial step in the MSRAM process is to calculate the maximum potential consequence of total loss of a target, factoring in injury and loss of life, economic and environmental impact, symbolic effect, and national security impact. MSRAM then assesses risk for a range of scenarios—each involving a combination of target and method of attack—in terms of threat, vulnerability, and consequence. MSRAM also considers the response capability of the owner/operator, local first responders, and Federal agencies to mitigate the consequences of an attack. The Coast Guard in consultation with representatives from Area Maritime Security Committees throughout the country has compiled this MSRAM risk information from Coast Guard Sectors and Captains of the Port into a database which provides an overall national view of terrorist risk to maritime assets.

We extracted information specific to MTSA regulated vessels and facilities from this database and used it to address the maximum consequence that would occur if the facility or vessel was completely debilitated by a transportation security incident (TSI) resulting from a terrorist attack. These MSRAM consequence scores were averaged across similar types of MTSA regulated vessels and facilities to develop a standard risk score for each type of vessel and facility.

The second factor scored was the criticality of vessel or facility type. The term ''criticality'' describes the impact of the total loss of a vessel or facility beyond the immediate local consequences and addresses regional or national impacts to human health, the economy and national security.

Finally, we scored the utility of TWIC in reducing vulnerability to terrorist attack for each vessel and facility type.

We used the AHP to combine these three factors and developed an overall risk ranking by vessel and facility type. AHP is a technique for decision making which uses a limited number of variables, each of which has a number of different attributes. This enables the combination of subjective and objective input from a group to produce consistent results.

Applying this technique, each of the three factors was weighted based on their importance to the policy decision process, and an analysis was conducted to check the consistency of the evaluation measures. At the end of this process, vessel and facility types with similar scores were combined into ''risk groups'' to determine TWIC verification and validation requirements.

In determining the cut offs between risk groups, risk rankings were graphed to identify any natural breaks that occurred in the data. For vessels, these breaks generally occurred where there was a change in the hazardous nature of the cargo or where the number of passengers carried aboard a vessel increased. The breaks were similar for facilities where these vessels called. These breaks were used in defining risk groups A, B, and C. These groups are spelled out in E. ''Facility and Vessel Risk Groups.''

We then turned to the Homeland Security Institute (HSI) to provide an independent peer review of our analysis.[3] Specifically, HSI is evaluating the validity of the risk assessment methodology and its appropriateness for the identified TWIC risk issues, the extent to which the conclusions follow from the analysis, and the overall strengths and weaknesses of the risk analysis. The main objective is to review how the MSRAM methodology has been applied to the development of the proposed TWIC reader requirements; the MSRAM methodology itself is not a part of the peer review. HSI's final report is expected this fall, and will be placed on the docket for this rulemaking, where indicated under **ADDRESSES**, as appropriate.

C. Requirement Options Considered

We considered three separate categories of TWIC verification that could, potentially, be checked at each entry: (1) Identity verification, (2) card authentication, and (3) card validity.

(1) Identity verification ensures that the individual presenting the TWIC is the same person to whom the TWIC was issued. In its most reliable form, this is done by matching the biometric template stored in the TWIC to the TWIC-holder's live sample biometric (*e.g.*, a fingerprint). However it can also be done to a less reliable degree by visually comparing the photo on the TWIC to the TWIC-holder or by requiring the TWIC-holder to place their card into a contact smart card reader and then entering his/her 6-digit Personal Identity Number (PIN), selected by the TWIC-holder at card issuance.

In some instances, a biometric match will not be possible. A small number of TWICs will be issued that contain either poor quality fingerprint templates, mostly due to badly damaged fingers, or no fingerprint minutiae in the case of amputations. In these cases, the reader will display a prompt indicating that this TWIC holder will require exception handling. We expect that the facility or vessel owner or operator will describe the exception process to be used in these cases in their security plan. The exception processes may include visual inspection of the TWIC including visual comparison of the photo printed on the card to the presented; visual comparison of the digital photo stored on the TWIC to the presenter by using a portable

[2] The ranking from each factor, as well as the overall rankings, are SSI per 49 CFR 1520.5(b)(5) and (b)(12). In accordance with 49 CFR 1520.9, SSI may only be released to covered persons with a need to know the information.

[3] The Homeland Security Institute (HSI) is a Studies and Analysis Federally Funded Research and Development Center established pursuant to section 312 of the Homeland Security Act of 2002 (6 U.S.C. 192). HSI delivers independent and objective analyses and advises in core areas important to its sponsor in support of policy development, decision-making, analysis of alternative approaches, and evaluation of new ideas on issues of significance.

reader with a contact interface and releasing the photo to the reader screen by entering the six-digit PIN; or an alternative process proposed by the owner or operator and approved by the Coast Guard.

Biometrics, other than the fingerprint templates stored in the Integrated Circuit Chip of the TWIC, may be used to biometrically verify the identity of individuals being granted unescorted access to secure areas of MTSA regulated facilities and vessels provided that a ''chain-of-trust'' is maintained to link the individual, their TWIC, and the alternative biometric. The process for maintaining these links would need to be described in an FSP or VSP, approved by the Coast Guard. In addition to linking the alternate biometric to the individual and heir TWIC, the process would need to include ascertaining the validity of the individual's TWIC.

Before obtaining an alternate biometric the TWIC holder must first be linked to their credential by matching the holder's fingerprint to the fingerprint template on the TWIC using a reader capable of reading and matching the TWIC biometric. During this process, the validity of the TWIC would also need to be ascertained. If the fingerprint template match is successful and the TWIC is valid the credential would, in most cases, be registered with the personnel access control system (PACS). While the TWIC holder is present, the alternate biometric would be captured and linked to the TWIC, thus establishing a ''chain-of-trust'' between the individual, their TWIC, and the alternate biometric. Variations on the usual process of registering the TWIC and alternate biometrics in a PACS, such as storing the alternate biometric on a separately issued card, or storing the alternate biometric on a local reader, may be proposed as part of the FSP or VSP. However, in all cases the linkage between the individual, the TWIC, and the alternate biometric would need to be proven and approved by the Coast Guard.

(2) Card authentication ensures that the card being used is an authentic TWIC, i.e., not a counterfeit. As designed, the primary method of card authentication involves engaging the TWIC with a reader to perform a CHALLENGE/RESPONSE protocol using the Card Authentication Certificate and the associated card authentication private key resident on the TWIC.[4] The card can also be visually inspected for various security features that are embedded into the front and back of the card, although this is a less reliable form of card authentication.

(3) Card validity involves the determination that a TWIC is still valid, i.e., that it has not expired; been reported as lost, stolen, or damaged; or been revoked for cause by TSA. A TWIC that is invalid is placed on the ''hotlist,'' which is updated daily.[5] As designed, checking for card validity is accomplished by comparing the expiration date of the TWIC to the current date and additionally comparing the card's internal Federal Agency Smart Card—Number (FASC–N), retrievable from several locations within the TWIC, to the hotlist FASC–Ns that TSA makes available to owners and operators.

An alternative method for checking card validity is to use a Certificate Revocation List (CRL). The link to the CRL is embedded in the Issuer Signing Certificate present on every card.[6] Each entry of the CRL is comprised of the certificate number and its date of revocation. Note there are four certificates for every TWIC Card (Card Authentication Certificate, Digital Signature Certificate, Key Management Certificate, and Personal Identity Verification (PIV) Authentication Certificate). The CRL is updated daily. Both of these processes (hotlist or CRL check) require a card/reader interface. A partial card validity check can be accomplished by reviewing the expiration date on the face of the TWIC, but such a check would not capture information relating to cardholders who TSA determines pose a security threat and/or hold revoked TWICs.

We anticipate that the Hotlist match (or the CRL match) can be done in one of two ways: Electronically (either in real time or by downloading the Hotlist into the reader or a separate access control system), or by printing out the Hotlist and manually entering it into a separate access control system.

The TWIC 1 NPRM discussed the potential for a process called ''privilege granting,'' in which an owner or operator could contact TSA and register those persons granted unescorted access privileges at the vessel or facility. Owners or operators would provide TSA with the FASC–Ns for every person who was being considered for unescorted access privileges. TSA would then contact the owner or operator directly if any of those FASC–Ns were placed on the Hotlist. This option requires access to a TWIC reader in order to discern the FASC–Ns associated with the individuals given unescorted access. This capability was tested during TSA's TWIC prototype but is not part of the current TWIC system. We would like to hear comments on whether such an option would be preferred, and if so, whether owners and operators would be willing to pay a fee for the option of using privilege granting (instead of downloading the Hotlist at regular intervals). If users would be willing to pay a fee, we also request a range of what would be appropriate (e.g., one time fee to use the system, annual fees, or a combination of both, plus limits on what fees owners and operators would be willing to pay).

D. Reader Requirements

When we considered electronic reader requirements for facilities and vessels, we began with a baseline approach that all three categories of TWIC verification—identity verification, card authentication, and card validity—in its most reliable and complete form should be required of all risk groups.

TWIC provides a universally recognized, tamper-resistant credential backed up by a TSA security threat assessment that, when used as an access control tool, reduces the risk of a transportation security incident at vessels and maritime facilities. TWIC is a dual interface smart card which was developed using national and international standards to ensure security, interoperability and performance. The card has physical and logical security features which, when used properly, can provide a secure method of determining, with a high level of assurance, that the TWIC-holder is the same individual to whom the TWIC was issued, and that they do not present a security threat.

The benefit of using existing industry recognized standards in developing the TWIC is the flexibility of use the card provides. It can be integrated into existing access control systems by using the TWIC as a secure means of

[4] The TWIC reader will read the Card Authentication Certificate from the TWIC card and then send a challenge to the card requesting the card authentication key be used to sign a random block of data (created and known to the TWIC reader). The TWIC reader will use the public key embedded in the Card Authentication Certificate to verify the signature of the random data block is valid. If the signature is valid the TWIC reader will trust the TWIC card submitted and will proceed to pulling the Federal Agency Smart Credential—Number (FASC–N) and other information from the card for further processing. The Card Authentication Certificate contains the FASC–N and a certificate expiration date harmonized to the TWIC card expiration date. This minimizes the need for the TWIC reader to pull more information from the card (unless required for additional checking).

[5] The hotlist is online at: *https://twicprogram.tsa.dhs.gov/TWICWebApp/SDownloadHotlist.do.*

[6] The CRL is located at *http://twic-crl.orc.com/CRLs/TWICCA1.crl.*

authenticating an individual when first registering an individual into an existing access control system. Alternatively, either the contact or contactless interface can be used with existing smart card readers to authenticate the individual and the credential when making access control decisions, by securely accessing and using the data stored on the TWIC.

A design principle of the TWIC system is to establish and maintain a chain of trust. A chain of trust is a security architecture that ensures that a uniform level of security and integrity is applied to the components or agents where information is stored or passes through. TWIC accomplishes this by the use of secure communication between components of the TWIC system, identity verification and authentication issuance requirements, and centralized personalization.

The following tables briefly summarize the requirements the Coast Guard is considering for each risk group. It indicates what would need to occur, at each MARSEC Level, to complete identity verification, card authentication, and a card validity check.

TABLE OF POTENTIAL READER REQUIREMENTS

	MARSEC Level 1	MARSEC Level 2	MARSEC Level 3
Risk Group A, Bulk CDCs, >1,000 passengers	IDENTITY VERIFICATION: Biometric match of fingerprint to template stored in TWIC at each entry.	IDENTITY VERIFICATION: Biometric match of fingerprint to template stored in TWIC at each entry.	IDENTITY VERIFICATION: Biometric match of fingerprint to template stored in TWIC at each entry.
	CARD AUTHENTICATION: Electronic communication to achieve a successful CHALLENGE/RESPONSE result at each entry.	CARD AUTHENTICATION: Electronic communication to achieve a successful CHALLENGE/RESPONSE result at each entry.	CARD AUTHENTICATION: Electronic communication to achieve a successful CHALLENGE/RESPONSE result at each entry.
	CARD VALIDITY CHECK: Compare FASC–N against Hotlist at each entry; update Hotlist weekly.	CARD VALIDITY CHECK: Compare FASC–N against Hotlist at each entry; update Hotlist daily.	CARD VALIDITY CHECK: Compare FASC–N against Hotlist at each entry; update Hotlist daily.
Risk Group B, HAZ MAT, Crude Oil, 500–1,000 passengers.	IDENTITY VERIFICATION: Random biometric match of fingerprint to template stored in TWIC, at least one day a month; all other times as visual identity badge.	IDENTITY VERIFICATION: Biometric match of fingerprint to template stored in TWIC at each entry.	IDENTITY VERIFICATION: Biometric match of fingerprint to template stored in TWIC at each entry.
	CARD AUTHENTICATION: Electronic communication to achieve a successful CHALLENGE/RESPONSE result at each entry.	CARD AUTHENTICATION: Electronic communication to achieve a successful CHALLENGE/RESPONSE result at each entry.	CARD AUTHENTICATION: Electronic communication to achieve a successful CHALLENGE/RESPONSE result at each entry.
	CARD VALIDITY CHECK: Compare FASC–N against Hotlist at each entry; update Hotlist weekly.	CARD VALIDITY CHECK: Compare FASC–N against Hotlist at each entry; update Hotlist daily.	CARD VALIDITY CHECK: Compare FASC–N against Hotlist at each entry; update Hotlist daily.
Risk Group C, Non-HAZ MAT, <500 passengers MODU OSV.	IDENTITY VERIFICATION: Visual identity badge at each entry.	IDENTITY VERIFICATION: Visual identity badge at each entry.	IDENTITY VERIFICATION: Visual identity badge at each entry.
	CARD AUTHENTICATION: Check security features on card at each entry and electronic verification during annual inspections and random spot checks.	CARD AUTHENTICATION: Check security features on card at each entry and electronic verification during annual inspections and random spot checks.	CARD AUTHENTICATION: Check security features on card at each entry and electronic verification during annual inspections and random spot checks.
	CARD VALIDITY CHECK: Check expiration date at each entry; CG perform spot checks.	CARD VALIDITY CHECK: Check expiration date each entry; CG perform spot checks.	CARD VALIDITY CHECK: Check expiration date at each entry; CG perform spot checks.

Risk Group A

To provide the maximum security benefit, we determined that those assets presenting the highest risk should be required to implement the most protective measures. Thus, we are considering requiring facilities and vessels that fall into risk group A to either match the TWIC-holder's biometric (fingerprint) to the template stored in the card or to match the TWIC-holder's biometric to one held in the owner/operator's own access control system. This match will need to occur at each entry. For the latter option, the owner or operator may choose to apply a different biometric than the fingerprint, such as an iris scan or hand geometry, stored in the local access control system and matched to the individual seeking access. Also, for the latter option, the owner/operator's system must be linked to the TWIC in such a manner that the access control system forbids access to someone who does not have a valid TWIC, or to someone other than to whom the TWIC has been issued. This means that the TWIC will need to be read and the stored biometric identifier matched against the TWIC-holder's fingerprint at least once, when the individual is entered into the local access control system.

We are re-considering whether to require a TWIC-holder to verify his/her PIN as a part of the identity verification process. This added element, making the TWIC-holder provide ''something he/she knows,'' would complete three-factor authentication: (1) Something the person has—a TWIC credential; (2)

Something the person knows—a PIN, stored securely on * * * the credential; and (3) Something the person is—biometric. PIN verification would require the TWIC to be inserted into a card reader, as the PIN only operates in the contact-chip mode. Comments received on the TWIC 1 NPRM made it clear that requiring insertion of a TWIC into an open-slot card reader was not favored among the maritime community. This was echoed in the recommendations made by NMSAC in its recommendations for specifications for a contactless TWIC. There were concerns over whether the readers would be able to withstand harsh environmental and operational conditions and how long they would last if they were operated continually in the maritime environment. Industry partners also voiced concerns over whether maritime workers would be able to remember a PIN, especially if a PIN was only required at higher MARSEC Levels, and over the operational delays that may be caused by requirements for TWIC-holders to pass through access control points, insert the card, enter a PIN (which could take several tries), and then remove the card. After considering these comments, the relative risk presented by the vessels and facilities, and the security already being provided through the remaining requirements, we have tentatively determined that a requirement for use of the PIN would have a negative impact on large scale throughput during access control evolutions. As a result, we have not included a requirement for regular use of the PIN at any MARSEC Level for any risk group in this ANPRM. We would like public comments on this decision and whether the Coast Guard should reconsider using PIN requirements. We note, however, that PINs may be required by owners and operators who wish to implement an additional level of security or during the spot checks and annual inspections conducted by the Coast Guard.

We are also considering a proposal that vessels and facilities in the highest risk group (risk group A) authenticate the card electronically with a card reader at each entry. Again, for vessels and facilities opting to integrate TWIC into existing local access control systems, this will need to be done before the individual's information is added into the local access control system, and before unescorted access is first granted to the individual. For other vessels and facilities, this function can be done by TWIC readers at the same time that the biometric match is being made. Adding this requirement would add a negligible time to the transaction between the TWIC-holder and the card reader, as the readers will be able to perform this function as the individual is presenting his or her finger for matching against the template stored on the TWIC.

Finally, vessels and facilities in risk group A would verify the validity of the TWIC at each entry using information that is no more than seven (7) days old, when at MARSEC Level 1. This means that on a weekly basis, the Hotlist or CRL will need to be downloaded into the reader(s) used at the vessel or facility's access control point(s) or into the local access control system used by the vessel or facility. This frequency will jump to daily (i.e., the Hotlist or CRL will need to be downloaded daily) at MARSEC Levels 2 and 3. We request comments, particularly from vessels and facility owners and operators in risk grouping A, as to these processes.

Risk Group B

Vessels and facilities in risk group B would, under a final rule based on this model, be required to complete the identity verification by using the TWIC as a visual identity badge (''flash pass'') at each entry. On a random basis, but at least one day a month, at MARSEC Level 1, they would also be required to match the biometric stored on the card in order to conduct more complete identity verification.

Vessels and facilities in risk group B would need to perform card authentication by electronically reading all the cards at MARSEC Level 1 at each entry, even when the biometric match is not being implemented. While these checks require the use of an electronic reader, they may be done using the contactless smart card interface, and would not require that the individual TWIC-holder present his or her fingerprint for matching against the template. The validity of the TWICs must be checked at each entry, using TSA's Hotlist or CRL. At MARSEC Level 1, this would be done using information that is no more than seven (7) days old. At MARSEC Levels 2 and 3, the information would be downloaded daily. We seek comments on this process and its application to vessels and facilities in risk group B.

Risk Group C

Facilities and vessels in the lowest risk group, risk group C, would not be required to match the biometric stored on the card in order to complete the identity verification at any MARSEC Level. Instead, they would only be required to use the TWIC as a visual identity badge in the manner currently required by the TWIC 1 FR. This provides identity verification with a lower level of reliance than a biometric match would, however, we have determined at this time, and subject to public comment, that in this lower risk group matching the biometric frequently is not necessary. Given the type of commodities and small number of passengers typical of this risk group, it is likely these vessels and facilities are a less attractive target for individuals who wish to do harm, though still holding the potential of being involved in a TSI. As a result, we have determined that the frequent matching of a biometric would not be practical. In addition, identity verification using TWIC as a visual identity badge would more closely align with other less stringent security provisions implemented at these lower risk vessels and facilities.

Card authentication for this group (risk group C), would require only verification of the various security features on the front and back of the card. Under this process, vessels and facilities in this risk group would continue to use the TWIC in the manner required by the TWIC 1 FR. Finally, for the card validity check, we would require only that the expiration date be checked. Thus, vessels and facilities in risk group C will be able to fulfill their TWIC obligations without having to buy or have access to a card reader.

This does not mean that individuals who hold TWICs and work exclusively at vessels or facilities falling into risk group C will never need to present their TWICs for a biometric match or more secure card authentication check. The Coast Guard will continue to check and verify TWICs, using handheld readers, during annual inspections and during unannounced spot checks aboard vessels and facilities within all three risk groups. These checks will include identity verification using the fingerprint template stored in the TWIC, card authentication, and card validity checks using the current TSA Hotlist or CRL. Additionally, vessels and facilities may choose to electronically authenticate the card with a card reader.

TSA would be able, through use of information collected during enrollment for the TWIC, to contact employers or the Coast Guard if an imminent threat, resulting in an immediate revocation of a TWIC, is identified during the perpetual vetting of TWIC holders. At MARSEC Levels 2 or 3, the Coast Guard spot checks and the percentage of TWICs verified at each annual inspection would increase.

The Coast Guard seeks public comment of these processes, and specifically as to the everyday

operational impacts related to the process and whether they will maintain appropriate security levels while permitting the efficient and effective continuation of industry operations.

E. Facility and Vessel Risk Groups

The following are suggested risk groups for vessels that are subject to 33 CFR part 104:

Risk Group A

(1) Vessels that carry Certain Dangerous Cargoes (CDC) in bulk;
(2) Vessels certificated to carry more than 1,000 passengers; and
(3) Towing vessels engaged in towing a barge or barges subject to paragraphs (1) or (2).

Risk Group B

(1) Vessels that carry hazardous materials other than CDC in bulk;
(2) Vessels subject to 46 CFR Chapter I, Subchapter D, that carry any flammable or combustible liquid cargoes or residues [7];
(3) Vessels certificated to carry 500 to 1,000 passengers; and
(4) Towing vessels engaged in towing a barge or barges subject to paragraphs (1), (2), or (3).

Risk Group C

(1) Vessels carrying non-hazardous cargoes that are required to have a vessel security plan;
(2) Vessels certificated to carry less than 500 passengers;
(3) Towing vessels engaged in towing a barge subject to paragraphs (1) or (2);
(4) Mobile Offshore Drilling Units (MODU); and
(5) Offshore Supply Vessels (OSVs) subject to 46 CFR chapter I, subchapters L or I.

The following is suggested risk groups for facilities that are subject to 33 CFR part 105:

Risk Group A

(1) Facilities that handle CDC in bulk;
(2) Facilities that receive vessels certificated to carry more than 1,000 passengers; and
(3) Barge fleeting facilities that receive barges carrying CDC in bulk.

Risk Group B

(1) Facilities that receive vessels that carry hazardous materials other than CDC in bulk;
(2) Facilities that receive vessels subject to 46 CFR Chapter I, Subchapter D, that carry any flammable or combustible liquid cargoes or residues;
(3) Facilities that receive vessels certificated to carry 500 to 1,000 passengers; and
(4) Facilities that receive towing vessels engaged in towing a barge or barges carrying hazardous materials other than CDC in bulk, crude oil, or certificated to carry 500 to 1,000 passengers.

Risk Group C

(1) MTSA-regulated facilities that receive vessels carrying non-hazardous cargoes that are required to have a vessel security plan;
(2) Facilities that receive towing vessels engaged in towing a barge carrying non-hazardous cargoes;
(3) Facilities that receive vessels certificated to carry less than 500 passengers.

All OCS facilities subject to 33 CFR part 106 would fall into risk group B.

We considered the possibility that vessels may move from one risk group to another, based on the cargo they are carrying or handling at any given time. We expect that owners and operators of vessels that expect to be in this situation (of moving between risk groups) will explain, in their amended security plans, how they will move between the requirements of the higher and lower risk groups, with particular attention to the security measures to be taken when moving from a lower risk group to a higher risk group and seek comments regarding this requirement and the potential timing and processes for carrying out these amendments.

We have also considered the possibility that facilities could be permitted to move between risk groups based on vessel interface or cargo operations. We are specifically requesting comment and suggestions on how to apply this flexibility as it pertains to potential electronic reader requirements while ensuring an equivalent level of security and consistency across multiple COTP Zones to the maximum extent possible.

F. Recurring Unescorted Access

In the TWIC 1 NPRM, we introduced the concept of recurring unescorted access for vessels to allow an individual to enter on a continual basis, without repeating the identity verification requirement at each entry. 71 FR 29410. This concept allowed flexibility for an individual to acquire unescorted access to secure areas on a continual or ongoing basis, without having to fulfill the TWIC access control requirement at every entry. In that NPRM, we noted that an owner or operator's decision to grant recurring unescorted access should be based on two considerations: (1) The relationship of the individual to the vessel, or how well ''known'' he or she is; and (2) the individual's need to have frequent and unimpeded access to the vessel. In developing this ANPRM, we determined that both vessels and facilities, at each risk group, should have the option of using recurring unescorted access for up to 14 persons per vessel or facility, if that provision is included in their amended security plan and approved by the Coast Guard. In order to take advantage of recurring unescorted access, the owner or operator of the vessel or facility would need to perform a biometric match of the individual against his or her TWIC (identity verification), either at hiring or upon the effective date of a final rule, whichever occurs later. This biometric match would need to include a verification of the FASC–N and the TWIC Card Authentication Certificate (card authentication), as well as a verification of the validity of the TWIC (card validity check). Once this check is done, the TWIC could be used as a visual identity badge at a frequency to be approved by the Coast Guard in the amended security plan, so long as the validity of the TWIC is verified periodically, using the Hotlist or CRL. For vessels and facilities in risk groups A and B, these periodic checks of validity would need to occur on a weekly basis at MARSEC Level 1, and on a daily basis at MARSEC Levels 2 and 3. For those vessels in risk group C, these checks would need to occur on a monthly basis at MARSEC Level 1, and on a weekly basis at MARSEC Levels 2 and 3. In each case, the validity would need to be checked using information that is no more than 24 hours old.

As a result, vessels in any risk group with a crew of 14 or less would not need to carry a reader on their vessel to provide access control over his or her own crew. The owner or operator would need access to a reader to perform the initial identity verification and card authentication, and would likely need some specialized software on a computer to complete the card validity checks, but these checks could be done at a shore side location, such as at the company's office. This would allow owners and operators of more than one vessel to use the same reader for an entire fleet. It also enables the owner or operator to pursue an agreement with a facility or other company to borrow or otherwise have access to their reader to perform the initial check, create a file with the FASC–Ns and names of the employees granted recurring unescorted access, and then use a software program

[7] The intent as used here is to capture those tank vessels that are carrying the high flash point petroleums, like crude oil, that aren't hazardous materials, whether inland, coastal, or seagoing.

to compare this list to the TSA Hotlist or CRL on the required periodic basis.

We used the recommendation from the Towing Safety Advisory Committee (TSAC) which recommended a crew size cut off of 14 for determining when to require a reader on board a vessel, as required by the SAFE Port Act to develop a cut off for recurring unescorted access. This was done because the rationale for allowing recurring unescorted access—i.e., that these vessels have a reduced vulnerability because the individuals are all ''known'' to one another—is the same rationale used by TSAC to justify their crew size cut off recommendation. The number was developed by taking into account the fact that for a small vessel, such as a towing vessel or offshore supply vessel, the crew would typically include up to one Master, one Chief Engineer, and three four-person crews who rotate through watch shifts. This number would also include a large percentage of deep draft vessels. We then carried the number over to facilities, as it is reasonable to assume that 14 persons could be ''known'' by a facility owner or operator as well.

While the recurring unescorted access provision does not go so far as to set a specific crew size below which a reader would not be required on a vessel, we believe this provision, in conjunction with the no reader requirement for risk group C, meets the intent of the SAFE Port Act. Namely, it provides relief for owners and operators of small and many large vessels, where it is unlikely that someone unknown to the crew could acquire any type of access to the vessel without raising suspicion. Additionally, while the recurring unescorted access process would call for the use of electronic card readers to gain access to certain vessels, we would not require that they be carried on board any vessel. If the owner or operator of a vessel can demonstrate in their vessel security plan that they will be able to meet the reader requirements via use of a reader at a dedicated facility, by using a reader that stays ashore with the company, or by agreements established between vessels and facilities (such those captured in a Declaration of Security) then the recurring unescorted access provisions could be met without requiring installation or implementation of a reader on a gangway or at any other place on the vessel.

G. Additional Topics and Requirements

Reader Approval—TWIC readers, incorporated into MTSA regulated vessel and facility PACS, will need to follow the standard/specification that will be developed from the results of the TWIC reader pilot program, and published by the Government. An independent lab that tests for compliance to the standard will be used by reader manufacturers. These test results will be listed by the Government on the DHS Responder Knowledge Base (RKB), which provides an on-line source of information on products, equipment, and other information. The RKB Web site may be viewed at: *http://www.rkb.us*.

Reader Calibration and Compliance—we are considering alternatives for how we can check for compliance with regard to the readers themselves. We would like to ensure, that once readers are installed, they are maintained in proper working order. The existing provisions in 33 CFR 104.235, 104.2260, 105.225, 105.250, 106.230, and 106.255 would require that the readers be inspected, tested, calibrated, and maintained in accordance with the manufacturer's recommendations, and that records of those actions be maintained as well. We seek comment on whether TWIC readers should also be the subject to Coast Guard inspections, or require some type of third party audit.

Security Plan amendment—we are considering a requirement for all owners and operators to amend their security plans to include TWIC requirements. We intend, at this time, to require the amendment within six months of promulgation of a final rule. However, we will re-evaluate this deadline as we get closer to issuing a final rule. We are also considering the staggering of deadlines in order to spread out expiration dates for security plans in the future. We seek public comment on how long owners and operators should have to amend security plans to incorporate TWIC reader requirements. This amendment would need to detail how the owner or operator would implement the TWIC verification requirements, including those promulgated in the TWIC 1 FR (if not already incorporated into their security plans), and electronic reader requirements if applicable. For instance, if the owner or operator will use recurring unescorted access, the amendment would need to explain when and where the initial check of the TWIC will occur, as well as how the periodic card validity check will be accomplished. The amendment would also need to explain how the owner or operator would address identity verification, TWIC authentication, and the TWIC validity check for individuals who are not granted recurring unescorted access (i.e., how they would check TWICs according to the relevant requirements if an individual seeks unescorted access, or how escorting would be accomplished).

Additional security plan provisions that we are considering include requiring the owner or operator to discuss how they will handle those persons whose TWIC indicate they have poor quality or no fingerprints, as well as those persons that are unable to match their live fingerprint to the template stored on their TWIC. We are also considering adding a requirement that those owners and operators using a separate physical access system explain how they are protecting personal identity information.

Requests for waivers, alternatives, and equivalents would need to comply with existing regulatory requirements found in 33 CFR 101.120, 101.130, 104.130, 104.135, 105.130, 105.135, 106.125 and 106.130.

We would not amend the section on Alternative Security Programs (ASPs), 33 CFR 101.120. Rather, we expect that, should this process be promulgated in a final rule, the Coast Guard will exercise its existing authority, found in § 101.120(d)(1)(ii), to require those organizations that have approved ASPs to amend them to incorporate the TWIC requirements. We will give each organization the same amount of time that owners and operators have to complete this amendment, but seek comment on whether a shorter or longer period would be more appropriate. For those organizations whose current ASPs cover vessels or facilities that would fall into more than one risk group, we would expect that the amended ASP address each relevant risk group.

Recordkeeping—The electronic readers that will be available for owners and operators to purchase in order to meet the requirements included in this proposal should be able to keep track of the names, FASC–Ns, dates, and times of those persons passing through the reader. Having records of those persons who were granted unescorted access, may prove beneficial in law enforcement situations. For this reason, we are considering requiring that facility and vessel owners who are required to utilize readers (those in risk groups A and B) also keep records of the persons who have been granted unescorted access (those whose TWICs have been read by a card reader) for a period of two years. We are not considering requiring that owners and operators need to know who is on their vessel or facility at all times and believe that type of requirement would be burdensome compared to the security benefit that it would provide. This would remove the requirement that individuals have their TWICs

electronically read when leaving the facility or vessel.

We are also considering that owners and operators opting to use recurring unescorted access keep records of those persons to whom recurring unescorted access has been granted. We would not be prescribing the format for these records, only that they include the name of individuals granted recurring unescorted access and be kept for two years and made available to the Coast Guard upon inspection or request. These records must allow the Coast Guard to identify the 14 (or fewer) individuals who are using the recurring unescorted access privilege at the time they inspect or request the record.

We are also considering a provision that all owners and operators maintain a record to demonstrate that they have completed the card validity check (Hotlist or CRL check), if required.

Additional persons required to obtain TWICs—MTSA contained additional categories of individuals who must hold a TWIC that were not explicitly identified in the TWIC 1 NPRM or TWIC 1 FR. These include all vessel pilots and all persons engaged on a towing vessel that pushes, pulls, or hauls alongside a tank vessel. 46 U.S.C. 70105(b). We believe that the majority of these individuals were already captured in the TWIC 1 FR requirement for all persons requiring unescorted access to secure areas; however there may be some vessel pilots that do not hold Federal licenses, and there may be some persons who are not credentialed mariners who are engaged on a towing vessel that is not otherwise regulated by 33 CFR part 104. Thus, we are considering including these populations in the TWIC requirement when we issue an NPRM, in order to comply with the congressional mandate found in 46 U.S.C. 70105(b).

V. Advisory Committee Input

The Coast Guard has a long tradition of consulting with its advisory committees before taking regulatory action. We acknowledge the benefit of consulting with our advisory committees, and before issuing this ANPRM we sent a task statement to the Merchant Marine Personnel Advisory Committee (MERPAC), TSAC, and NMSAC, asking eighteen questions related to requirements for TWIC readers. This task statement, as well as each committee's formal responses and recommendations, may be found in the docket for this ANPRM where listed under the **ADDRESSES** section above. As discussed above, we accepted and incorporated a number of the advisory committee recommendations into this ANPRM. We greatly appreciate advisory committee input into this program and plan to continue to seek advisory committee input throughout the remainder of the TWIC regulatory process.

VI. Discussion of Pilot Program

In accordance with the SAFE Port Act, DHS, through the USCG and TSA, developed a pilot program to ''test the business processes, technology, and operational impacts required to deploy transportation security card readers at secure areas of the marine transportation system.'' 46 U.S.C. 70105(k)(1)(A). The SAFE Port Act requires the pilot program to be conducted in a minimum of five geographically distinct locations. The selected sites include the ports of Los Angeles and Long Beach, California; the ports of New York and New Jersey, (New York, Elizabeth, and Newark); the port of Brownsville, Texas; an Inland Rivers tugboat operator in Vicksburg, Mississippi; the Staten Island Ferry in New York, and a small passenger vessel operator in Annapolis, Maryland. Other locations are also under consideration, specifically a cold weather facility in the Great Lakes region. The goal of the pilot program site selection is to engage a wide range of vessel and facility types in a variety of operational environments and geographic areas. During the reader pilot program, TSA strongly advocates, but does not mandate, that port security directors consider FIPS 201 authentication readers to accommodate future FIPS 201 interoperable cards.

The TWIC pilot program will conduct tests of contactless biometric readers, as well as the credential authentication and validation process to evaluate the previously published reader specification. 72 FR 53784. TSA and USCG worked with the maritime and smart card industries through NMSAC to specify contactless technology for TWIC readers that will minimize the impact to the flow of commerce (*e.g.*, slower throughput at gates, potential lower availability of workers) while still enabling the use of biometrics to verify identity and while protecting personal information in the card from unauthorized disclosure. The following should not be considered an all-inclusive list; rather, this information is intended to offer insight regarding the purpose and goals of the TWIC pilot program to greater inform your comments to this ANPRM and provide information as to the overall progress of the TWIC program.

TSA has developed a Test and Evaluation Master Plan (TEMP) to provide a plan to acquire and evaluate the test data needed to support the final reader rule. The TEMP addresses the impact of requiring the use of the Contactless Biometric Card Reader to biometrically verify identity, card authenticity and validity, and establishes a plan for an Integrated Test and Evaluation Program (ITEP) for the card reader. The ITEP is designed to provide accurate and timely information necessary to evaluate the economic impact of a nationwide deployment of the card reader(s), and to test the capability of card reader(s) to support the enhanced security of the Nation's maritime transportation systems through the development and issuance of enhanced rules and specifications. The ITEP is comprised of three principle activities including:

(1) Initial Technical Test (ITT),

(2) Early Operational Assessment (EOA), and

(3) System Test and Evaluation (ST&E).

All testing is designed to build upon preceding testing and assessments to ensure all technical and operational aspects of the card reader are evaluated while minimizing testing duplication.

The ITT is focused on providing information to determine if select card readers meet specification parameters, including environmental requirements, to ensure that the card readers will correctly perform the biometric match and operate in the maritime operational environment during ST&E.

The EOA is focused to obtain essential data to support rulemaking, assess card reader suitability and effectiveness, and support refinement of the card reader specification.

The ST&E is a comprehensive technical and operational testing of the card reader system to provide the information required to finalize reader regulatory requirements and support future card reader acquisitions by the stakeholders.

Reader conformance testing is predicated upon a test protocol verified by the National Institute of Standards and Technology. Conformance testing will be conducted in accordance with the test protocol at an independent laboratory. This includes TWIC contactless reader interface testing.

Upon successful completion of the ST&E conformance testing, card readers and/or portable card readers are installed and tested at selected operational sites and vessels. The operational testing will proceed with the system operating at the site or vessel. System testing then continues until the data to support the decision for declaration of operational effectiveness and supportability is acquired.

As required by the SAFE Port Act, the pilot program's results should validate the TWIC and TWIC reader's impact on the flow of commerce, the ability for vessels and facilities to comply with the regulations, the applicability of the TWIC reader requirements, and their ability to improve security, and economic and environmental impacts.

VII. Regulatory Analyses

Before developing an NPRM, we will consider a number of statutes and executive orders related to rulemaking, including Executive Orders 12866 and 13132 (Regulatory Planning and Review and Federalism, respectively), the Regulatory Flexibility Act (5 U.S.C. 601–612), the Paperwork Reduction Act (44 U.S.C. 3501–3520), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f). If you have any information or comments that you feel would be helpful to us as we complete these required analyses, please submit it to the docket during the comment period for this ANPRM. Draft analyses will be included as part of an NPRM, and will be made public for comment before the issuance of a final rule, as required by the Administrative Procedure Act (5 U.S.C. 553).

Dated: January 16, 2009.

Brian M. Salerno,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Stewardship.

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POSTAL REGULATORY COMMISSION

39 CFR Part 3007

[Docket No. RM2008–1; Order No. 194]

Treatment of Non-Public Materials Submitted by the Postal Service

AGENCY: Postal Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing rules on the treatment of non-public material submitted by the Postal Service. Issuance of this proposal will allow interested parties to comment on the Commission's approach to implementing a new statutory requirement.

DATES: Initial comments due April 27, 2009; reply comments due May 11, 2009.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*.

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

SUPPLEMENTARY INFORMATION: *Regulatory History*, 73 FR 50532 (August 26, 2008).

I. Introduction

The Postal Regulatory Commission (Commission) proposes to implement 39 U.S.C. 504(g) by adopting regulations applicable to confidentiality of materials submitted by the Postal Service to the Commission. A Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, issued August 13, 2008 (Order No. 96), requested public comments and reply comments. Based on comments received in this docket (RM2008–1) in response to the Commission's initial notice, the Commission issues this Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality.

39 U.S.C. 504(g)(3)(A) recognizes the need to balance the Postal Service's, its business partners', or its customers' legitimate expectations to keep commercially sensitive information confidential with the public's expectation for accountability and transparency of the business dealings of a governmental entity competing in commercial markets. The Postal Accountability and Enhancement Act (PAEA), Public Law 109–435, 120 Stat. 3218 (2006), relies on public transparency, in addition to regulation, to achieve its goal of Postal Service accountability. Therefore, as directed by the provisions of the PAEA and because the Commission considers it necessary and appropriate, the Commission proposes rules that could lead to public disclosure of materials that the Postal Service or a third party initially claims are non-public.

In developing proposed rules, the Commission takes very seriously its responsibility to achieve a fair balance between the commercial interests of the Postal Service and its partners or customers and the public interest in disclosure of information concerning a public entity that competes in commercial markets, as well as the need for discovery and access for any persons who wish to participate in Commission proceedings.

II. Statutory Standards for According Confidentiality to Postal Service Materials

The Postal Regulatory Commission is an independent establishment of the executive branch of the Government of the United States. *See* 39 U.S.C. 501. Therefore, the presumption is that its records are available for public review. 5 U.S.C. 552. However, 39 U.S.C. 504(g)(1) provides that the Postal Service may determine ''that any document or other matter it provides to the Postal Regulatory Commission'' is exempt from public disclosure under 39 U.S.C. 410(c) or 5 U.S.C. 552(b). The Postal Service must give reasons, in writing, for its claim. *See* 39 U.S.C. 504(g)(1).

Unless the Commission has established rules for determining the appropriate degree of protection of materials claimed to be non-public by the Postal Service, the Commission may not (1) ''use such information for purposes other than the purposes for which it is supplied;'' or (2) ''permit anyone who is not an officer or employee of the Commission to have access to any such information.'' *See* 39 U.S.C. 504(g)(2).

These proposed rules outline the procedure for the Commission's treatment of non-public materials. Under these proposed rules, when materials are filed along with an application for non-public treatment, the Commission will initially treat those materials as non-public. However, the proposed rules allow persons to challenge non-public status or request access to the materials. The Commission, following such a motion or of its own accord, may balance the relevant interests to determine if disclosure or access is warranted.

Under 39 U.S.C. 410(c), the Postal Service may claim as exempt from public disclosure the name and address of postal customers; certain commercial information, for example, trade secrets, and other information which would not be disclosed under good business practice; certain information related to the negotiation of collective bargaining agreements; information prepared for proceedings before the Commission or the Federal courts concerning postal rates, classes and services; reports and memoranda prepared by outside sources unless their disclosure would have been required if the Postal Service had prepared the reports or memoranda itself; and investigatory files compiled for law enforcement purposes, unless legally available to parties other than the Postal Service.

Under 5 U.S.C. 552(b), records that may be withheld from public disclosure include, but are not limited to, matters concerning only internal personnel matters of an agency; matters specifically exempted from public disclosure by statute; trade secrets and privileged or confidential commercial or financial information; non-public

interagency or intra-agency memoranda or letters; privacy protected personnel, medical and other files; and certain law enforcement records or information. Section 552(b) provides that any portions of records subject to disclosure that can be segregated from records otherwise exempt from disclosure must be provided.

Upon adopting appropriate regulations under 5 U.S.C. 553 that ''establish a procedure for according appropriate confidentiality[,]'' the Commission may publicly disclose materials which the Postal Service asserts are exempt from disclosure under 39 U.S.C. 410(c) or 5 U.S.C. 552(b). 39 U.S.C. 504(g)(3)(A). In determining the appropriate degree of confidentiality for non-public materials, the Commission is directed to ''balance the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets.'' *Id.*

During a proceeding, the Commission may authorize access to non-public materials that the Postal Service has claimed are exempt from disclosure under 39 U.S.C. 410(c) or 5 U.S.C. 552(b). 39 U.S.C. 504(g)(3)(B). However, before authorizing any person to access the non-public materials, the Commission ''shall, by regulations based on rule 26(c) of the Federal Rules of Civil Procedure, establish procedures for ensuring appropriate confidentiality for the information * * *.'' Federal Rule of Civil Procedure 26(c) allows a court to issue a protective order for ''good cause.'' [1] Under rule 26(c) a protective order may range from a complete bar on disclosure to disclosure with conditions placed on time, manner, method, scope, or party allowed access.

The general parameters for disclosure and conversely protection of confidentiality of non-public materials during the discovery process under section 504(g)(3)(B) must be gleaned from the Federal case law pertaining to Federal Rule of Civil Procedure 26. Those parameters are a broader set than the specific parameters established by the balancing test laid out in section 504(g)(3)(A).[2] Case law surrounding Federal Rule of Civil Procedure 26 identifies several non-exclusive factors to be applied under the rule 26(c) ''good cause balancing test.'' *See Arnold* at 108. In the 2007 *Arnold* decision, the Third Circuit reaffirms the balancing test factors it developed in its 1994 *Pansy* decision:

> (1) [T]he interest in privacy of the party seeking protection; (2) whether the information is being sought for a legitimate purpose or an improper purpose; (3) the prevention of embarrassment, and whether that embarrassment would be particularly serious; (4) whether the information sought is important to public health and safety; (5) whether sharing of the information among litigants would promote fairness and efficiency; (6) whether the party benefitting from the order of confidentiality is a public entity or official; and (7) whether the case involves issues important to the public.

Id. (citing *Pansy*, 23 F.3d at 787–88). In this order, the Commission refers to these factors as ''evidentiary privileges.''

The general parameters for protection of confidentiality of materials under section 504(g)(3)(B) differ from the test under 504(g)(3)(A) which entails balancing the ''nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets.'' Access entails a specific request for materials during a Commission proceeding which may or may not trigger a ''public interest.'' [3] The procedure for ensuring confidentiality under section 504(g)(3)(B) must balance a private interest, the party's need for the materials to participate effectively in a proceeding, as well as the public's interest in transparent Commission proceedings, against the Postal Service's or third party with a proprietary interest's evidentiary privileges derived from the Federal Rule of Civil Procedure 26(c) ''good cause balancing test.''

The Commission may require the Postal Service to submit materials in furtherance of the Commission's duties to determine compliance under chapter 36 of title 39 of the U.S. Code. The public must be provided an opportunity to participate effectively in the Annual Compliance Determination (ACD) proceeding.[4] For the public to participate effectively and comment in an ongoing or upcoming annual determination of compliance, the Commission anticipates that persons may require access to non-public materials outside a Commission proceeding. To determine if access to these materials is appropriate, the Commission must determine that the materials are relevant to an ongoing or upcoming ACD, and balance the Postal Service's (or third party with a proprietary interest) evidentiary privilege interest against the need of the requesting party to participate effectively. This process is akin to a request for access under section 504(g)(3)(B); therefore, it is appropriate for the Commission to utilize protective conditions when necessary to protect the interests of the Postal Service or third party with a proprietary interest in the materials.

III. Order No. 96

In Order No. 96, the Commission proposed rules which would govern handling and access to materials submitted to the Commission, but deemed ''exempt from disclosure'' by the Postal Service. *See* Order No. 96. The Commission proposed rules 3007.10 to 3007.21, which would require the Postal Service to make an application for non-public treatment of all materials it submits and deems ''exempt from disclosure'' under 39 U.S.C. 504(g)(1). *Id.* at 17–19. The Commission also proposed rules 3007.24 through 3007.32, which govern the types of persons who can access the materials, the method by which a person can obtain access to materials, the restrictions on use of materials for persons signing protective conditions, and the procedure to remove the ''non-public'' status from the materials. *Id.* at 20–23.

The Commission proposed that one balancing test, governing the degree of confidentiality or assurance of appropriate confidentiality under 39 U.S.C. 504(g)(3)(A) and 39 U.S.C. 504(g)(3)(B), respectively, would be adequate and appropriate. *Id.* at 5. Consequently, the Commission proposed rule 3007.25, as a single standard for decision for requests made to access non-public Postal Service materials, and requests to remove

[1] Rule 26(c), which is entitled ''Protective Conditions,'' authorizes the court, for good cause, to issue a variety of orders to protect parties or witnesses in the discovery process. *See* Charles Alan Wright, Arthur R. Miller & Richard L. Marcus, Federal Practice and Procedure 2035, *et seq.* (2d ed. 1994).

[2] *See, e.g.*, *Arnold* v. *Penn. Dep't of Transp.*, 477 F.3d 105 (3d Cir. 2007) at 109–110; *Pansy v. Borough of Stroudsburg*, 23 F.3d 772 (3d Cir. 1994) at 788; *Leucadia, Inc.* v. *Applied Extrusion Technologies*, 998 F.2d 157 (3d Cir. 1993) at 167. *See generally* Arthur R. Miller, *Confidentiality, Protective Orders, and Public Access to the Courts*, 105 Harv. L. Rev. 427 (1991).

[3] For example, in a complaint filed by a mailer against the Postal Service, the mailer may ask for discovery of documents relevant to the complaint but which do not fall under the purview of the public's interest in financial transparency. *See, e.g.*, *Washington Post* v. *U.S. Dept. of Health and Human Services*, 690 F.2d 252 (D.C. App. 1982); *see also Assoc. for Women in Science* v. *Califano*, 566 F.2d 339 (D.C. App. 1982). Both cases address the different applications of the Freedom of Information Act (FOIA) and the Federal Rules of Civil Procedure as they pertain to discoverability and privilege from discovery.

[4] *See, e.g.*, 39 U.S.C. 3653(a) (directing the Commission to ''promptly provide an opportunity for comment'' during the ACD proceeding).

protective conditions and publicly disclose those materials. *Id.* at 21. That standard for decision included two subparts:

> (a) The Commission or its authorized representative shall balance the nature and extent of the likely commercial or other injury identified by the Postal Service against the public interest in maintaining the financial transparency of a government entity operating in commercial markets in determining whether to issue an order requiring disclosure of the information or materials filed under 39 U.S.C. 504(g)(1).
>
> (b) The Commission or its authorized representative shall balance the nature and extent of the likelihood that [disclosure of] non-public materials would invade a specific evidentiary privilege that is recognized in federal civil courts, or would constitute an undue burden that the Postal Service has quantified to the best of its ability against the public interest that would be served by providing access to the non-public materials in determining whether to issue an order requiring disclosure of non-public materials.

Id.

Order No. 96 summarizes ways the Postal Service and third-party non-public materials come before the Commission and the proposed treatment of such materials. Order No. 96 also proposed procedures to ensure confidentiality, or provide public dissemination, as may be appropriate.

IV. Comments on Order No. 96

Multiple parties commented on Order No. 96. The Commission acknowledges the comments and appreciates the thoughtful discourse they provide concerning the proposed confidentiality rules. Several issues raised by the comments, and further discussions by the Commission, have led to modifications in the initially proposed regulations and necessitate this order and a second opportunity for interested parties to comment.

The comments filed in response to Order No. 96 cover multiple issues. However, two issues were common to multiple commenters and provide the impetus for this order.

Language and function of the balancing test to determine the appropriate degree of confidentiality. Valpak Direct Marketing Systems, Inc., and Valpak Dealers' Association, Inc. (Valpak); American Postal Workers Union, AFL–CIO (APWU); and the Newspaper Association of America (NAA) comment that the ''evidentiary privileges'' recognized by the Federal courts under Federal Rule of Civil Procedure 26(c) and the open-ended ''other injury'' term should not be imputed into the balancing test to determine the appropriate degree of confidentiality under 39 U.S.C. 504(g)(3)(A).[5] The comments advise the Commission to use the balancing test articulated in 39 U.S.C. 504(g)(3)(A) to determine the appropriate degree of confidentiality under the rules, rather than considering ''other injury'' or evidentiary privileges. *See* Valpak Comments at 11; APWU Comments at 2; and NAA Reply Comments at 2–8.

Valpak specifically asserts:

> [D]espite its regulations, the Commission's actual decision-making on confidentiality could be infected by inappropriate references to rule 26(c)'s 'good cause balancing test' in derogation of the 'commercial injury/financial transparency' test established by section 504(g)(3)(A). Indeed, the Commission has suggested that, under the influence of the rule 26(c) balancing test, it could 'decid[e] whether the need for transparency outweighs the need for protecting the commercial or other interests of the Postal Service,' whereas section 504(g)(3)(A) limits the balancing process to one Postal Service interest — 'likely commercial injury'—without reference to any 'other interest,' including [rule 26(c) factors] * * *. Such factors may be relevant to judicially-crafted protective orders in private litigation, but which are wholly inapposite to such orders in the discharge of the executive and administrative functions of the Commission, especially in light of statutory requirements for transparency.

Valpak Comments at 11–12 (internal citations omitted, footnote omitted, emphasis omitted). NAA agrees with Valpak:

> Val-Pak correctly points out that the Rule 26(c) judge-created balancing test used in civil litigation is incompatible with the substantive balancing test adopted by Congress in Section 504(g)(3)(A).

NAA Reply Comments at 4.

These comments find conflict in the Commission's single rule balancing test which encompasses ''other injury'' in addition to ''likely commercial injury.''

Greeting Card Association (GCA), however, disagrees with limiting the test to the language of section 504(g)(3)(A).[6] GCA argues that the Commission should take into account ''other injury'' because the statutory language does not limit the balancing test to only the factors set forth in the statute. *Id.* at 2. GCA comments that under 504(g)(3)(A), loss of volume resulting from potential disclosure of third-party sensitive information should also be included as ''commercial injury.'' *Id.* at 2–3.

The Postal Service is also opposed to the balancing test encompassing only ''likely commercial injury.''[7] It believes that interests it has in law enforcement, audit activities, collective bargaining, privacy, deliberative process, testing and examination of employees, and other interests are not implicated in such a test. *Id.* The Commission does not read ''likely commercial injury'' in such a narrow fashion as to exclude harm associated with the categories mentioned by the Postal Service in its comments. Most materials filed by the Postal Service with the Commission are commercial in nature, and for the Commission to demand information from the Postal Service, that information must be in furtherance of the Commission's duties under title 39 of the U.S. Code.

The Postal Service also comments that the Commission should not conduct ''appellate review'' of the Postal Service's FOIA determinations under these proposed rules. *Id.* at 3. The operation of these rules, however, by clear mandate from 39 U.S.C. 504(g), allows the Commission either to publicly disclose, or to grant access subject to protective conditions, materials it collects from the Postal Service in furtherance of the its duties under title 39 of the U.S. Code. 39 U.S.C. 504(g) does not operate to make the Commission an appellate body for FOIA; rather, without regard to FOIA, it operates to provide a mechanism for the Commission to create greater transparency (and hence less protection than FOIA provides), for matters relevant to the financial transparency and the regulatory responsibilities of the Postal Regulatory Commission.

Protection for non-public materials in which a third party has a proprietary interest. Parcel Shippers Association (PSA, et al.); the Association for Postal Commerce (PostCom); Direct Marketing Association, Inc. (DMA); Mail Order Association of America (MOAA); Time Warner, Inc. (Time Warner); National Postal Policy Council (NPPC); Magazine Publishers of America, Inc. (MPA); Alliance of Nonprofit Mailers (ANM); Pitney Bowes Inc.; GCA; and the Postal Service all reference the lack of protection for third-party materials held by the Postal Service but belonging to a third party.[8] As articulated by Pitney

[5] Valpak Direct Marketing Systems, Inc. and Valpak Dealers' Association, Inc. Comments Regarding Regulations to Establish a Procedure for According Appropriate Confidentiality, September 25, 2008 (Valpak Comments); Initial Comments of American Postal Workers Union, AFL–CIO, September 25, 2008 (APWU Comments); and Reply Comments of the Newspaper Association of America, October 10, 2008 (NAA Reply Comments).

[6] *See* Reply Comments of the Greeting Card Association, October 10, 2008 (GCA Reply Comments).

[7] Initial Comments of the United States Postal Service, September 25, 2008, at 5–6 (Postal Service Comments).

[8] Initial Comments of Parcel Shippers Association, the Association for Postal Commerce, Direct Marketing Association, Inc., Mail Order Association of America, Time Warner Inc., National

Bowes, there should be an obligation to provide notice and an opportunity to be heard for parties whose commercially sensitive materials could be subject to disclosure in a Commission proceeding under these rules. *See* Pitney Bowes Comments at 6–7. This need is acute, according to Pitney Bowes, since the interests of the third party may not align perfectly with the Postal Service's reasons for claiming the materials exempt from disclosure. *Id.* at 5. The balancing test set out in section 504(g)(3)(A) must not be used for materials in which a third party has a proprietary interest because as PSA comments, ''[i]t is manifest * * * that the same balancing requirements in the public interest are not implicated in the disclosure of the sensitive information of a third-party * * *.'' PSA Comments at 4.

NAA, however, does not believe any additional protection of non-public materials with a third-party proprietary interest is necessary. *See* NAA Reply Comments at 8–10. Specifically, NAA comments:

> [A] third party that has provided documents to the Postal Service should [not] have an absolute right to prevent disclosure of that document. Disclosure of one's potentially sensitive documents, when in the possession of another entity, is always a risk in the business world. There is no reason why third parties dealing with the Postal Service should have any greater rights than in other business relationships.

Id. at 8–9.

The Public Representative's comments provide useful critique for the structure, wording, and application of the proposed rules.[9] United Parcel Service (UPS) comments that the Commission should not apply protective conditions as a prophylactic remedy.[10] UPS argues that protective conditions should not be used for ''key Postal Service information that should be available to the public at-large.'' *Id.* at 2–3.

The Postal Service requests that it be able to submit redacted, public versions of word processing documents in Adobe Portable Document format (PDF) rather than in native format. Postal Service Comments at 15. The Postal Service also requests that persons seeking access under the rules identify relevant affiliations to accurately assess whether to object within an abbreviated timeframe. *Id.* at 12–13.

V. Other Developments

In Docket No. ACR2008, the Public Representative raised an issue of ''continuity of analysis,'' which occurs when materials are accessed under protective conditions and are subject to the requirement that they be ''returned or destroyed'' when the Commission issues a final order in a case, or another event brings a matter before the Commission to a conclusion.[11] The Public Representative points out that this may effectively foreclose the opportunity to review trends in data over time, or compare data to determine anomalies. *Id.* Proposed rule 3007.50 will allow a person who has obtained access to non-public materials either during discovery in a Commission proceeding or in a previous rule 3007.50 request, to make a motion to continue access and protective conditions. If such a motion is granted, access subject to protective conditions will continue through the conclusion of the Commission's next ACD proceeding.

Also in Docket No. ACR2008, Valpak asked the Commission to issue an information request.[12] Valpak ''believes that participants should be permitted to request information directly from the Postal Service on the record * * *.'' *Id.* at 1. Since participants' requests may be burdensome, duplicative, irrelevant, or involve objections or confidentiality concerns for the Postal Service, the Commission formalizes the process by which a person may request the Commission to issue an information request by changing proposed rule 3007.3. Under proposed rule 3007.3(b), any person may make a motion requesting that the Commission issue an information request to the Postal Service. Such a motion must include a detailed statement of support explaining how the materials sought will be relevant and material to the Commission's duties under title 39 of the U.S. Code.

In Docket No. MC2009–11, the Public Representative stated that the Postal Service should redact using the ''black box'' method as it is preferable to using the ''ellipses'' (deletion) method since it allows the reader ''to view the scope and extent of material that has been removed.''[13] Subsequently, in Docket No. MC2009–13, the Postal Service justified use of the ''ellipses'' method by making a claim that the ''black box'' method provides ''information or clues regarding the name of the customer, the length and breadth of price charts, the complexity of annual adjustment mechanisms, or other similar sensitive information.''[14] Most recently, in Docket No. MC2009–15, the Public Representative suggested that the Commission may wish to address the appropriate method by which the Postal Service should redact non-public materials.[15]

VI. Review of Changes to Proposed Rules

The Commission adds several new proposed rules and modifies previously proposed rules to accurately identify and balance all relevant interests.

The Commission will obtain information, and must manage access to that information, in two basic contexts. In the first context, the Postal Service will file information pursuant to a specific statutory requirement or Commission rule. In these instances, with respect to some reports, the PAEA explicitly authorizes the Postal Service to designate portions as non-public annexes or to otherwise avail itself of the protections afforded Postal Service documents or other matters under the procedures of section 504(g). *See* 39 U.S.C. 3642(d), 3652(f), and 3654(f). Under proposed rule 3007.20, the Postal Service would notify any third party which the Postal Service has reason to believe may have a proprietary interest in the materials of the filing.

Under proposed rule 3007.20, the Postal Service must apply to the Commission, at the time that it files materials, for specifically identified portions of these materials to be non-public and to qualify for a degree of protection from public disclosure. Similarly, under proposed rule 3007.20, a third party with a proprietary interest in non-public materials may file an

Postal Policy Council, Magazine Publishers of America, Inc., and Alliance of Nonprofit Mailers on Order No. 96, September 25, 2008 (PSA, et al. Comments); Comments of Pitney Bowes Inc., September 25, 2008, (Pitney Bowes Comments); and Initial Comments of the Greeting Card Association, September 25, 2008 (GCA Comments). *See also* Postal Service Comments.

[9] Public Representative Comments on Proposed Regulations to Establish Procedure for According Appropriate Confidentiality, September 25, 2008 (Public Representative Comments).

[10] Comments of United Parcel Service on Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, September 25, 2008 (UPS Comments).

[11] Docket No. ACR2008, Motion to Make Core Cost, Volume, and Revenue Materials Public, January 27, 2009, at 13.

[12] Docket No. ACR2008, Valpak Direct Marketing Systems, Inc. and Valpak Dealers' Association, Inc. Motion for Issuance of Commission Information Request Concerning Core Costing Data on Detached Address Labels, January 13, 2009.

[13] Docket No. MC2009–11, Public Representative Comments in Response to Order No. 142, December 10, 2008, at 4.

[14] Docket No. MC2009–13, Request of the United States Postal Service to Add Express Mail & Priority Mail Contract 3 to Competitive Product List and Notice of Establishment of Rates and Class Not of General Applicability, December 19, 2008, at 3.

[15] Docket No. MC2009–15, Public Representative Comments in Response to United States Postal Service Request to Add Express Mail Contract 3 to Competitive Product List, January 15, 2009, at 3–4.

application for non-public treatment. Proposed rules 3007.21 and 3007.22 provide guidance on the content for an application for non-public treatment. Proposed rule 3007.21 specifically instructs the Postal Service to thoroughly justify its application with statutory authority.

In the second major context, the Commission may request information or materials from the Postal Service by way of a data or information request, or, if necessary, by issuance of a subpoena.[16] The Commission may also receive information or materials from other parties during the exercise of its duties under title 39 of the U.S. Code. When the Commission identifies information that it needs for the preparation of reports, for the conduct of ''proceedings,'' or other functions under the PAEA, the normal procedure contemplated for obtaining that information will be the issuance of data or information requests under proposed rule 3007.3. Data or information requests in the proposed rules are similar to requests that were issued in the former Postal Rate Commission's international mail dockets as part of its preparation of its reports to Congress on international mail. The proposed rules contemplate that, where it perceives it to be necessary, the Postal Service or third party with a proprietary interest in the materials would file an application for non-public treatment under proposed rule 3007.20 with regard to data or information provided in response to a request issued by the Commission. In its application for non-public treatment, the Postal Service or third party with a proprietary interest in the materials would ask for a necessary degree of protection from public disclosure; for example, by requesting limiting the scope of the information to be produced, or restricting the dissemination of the information provided, as is commonly done in the application of rule 26(c) of the Federal Rules of Civil Procedure in Federal civil litigation.

In both instances, the non-public materials would initially be protected from disclosure until the Commission decides to disclose or grant access to the non-public materials, following a request for termination of non-public status, a request for access during a proceeding, or a request for access to materials relevant to compliance under proposed rules 3007.31, 3007.40, or 3007.50, respectively. Before acting on its own initiative, or in response to a request to require disclosure of or access to non-public materials, the Commission will give interested parties an opportunity to respond.

Valpak, APWU, and NAA's comments about the appropriate balancing test for determining the degree of confidentiality to be afforded Postal Service non-public materials result in several changes to the proposed rules. While a single balancing test has simplicity, it is neither equitable nor consistent with section 504(g) to use a single balancing test to determine public disclosure, discoverability in a Commission proceeding, and access to materials outside a proceeding but relevant to compliance. The Commission, therefore, proposes separate balancing tests depending on the nature of the request. The Commission also bifurcates the standard for decision for termination of non-public status in proposed rule 3007.33 to account for situations where only Postal Service non-public materials are at issue, and situations where non-public materials in which a third party has a proprietary interest are at issue. While more complex, the Commission believes these new proposed rules will allow the public to identify more easily the competing interests at issue in each determination, and to channel requests to the appropriate rule.

The Commission incorporates the statutory test from 39 U.S.C. 504(g)(3)(A) in proposed rule 3007.33(a), which sets forth the standard for decision when a person requests public disclosure and removal of non-public status. This proposed rule allows a person to challenge the Postal Service's classification of materials as non-public and exempt from disclosure under 39 U.S.C. 504(g)(1). This test balances the Postal Service's interest in avoiding commercial injury against the public's interest in financial transparency. If the likely commercial injury does outweigh the public interest, the Commission may deny the request to remove non-public status from the materials, or order the Postal Service to redact sensitive portions of the materials so that some portion may be released to the public.

In cases where non-public materials in which a third party has a proprietary interest are at stake, subsection (b) of this rule sets out the balancing of the parties' interests under Federal Rule of Civil Procedure 26(c) as the test for disclosure.

There are different rights at issue, interests to be balanced, and a stronger need for disclosure in the context of discovery, so the Commission creates a separate test applicable to access to materials during a Commission proceeding in proposed rule 3007.42. Under this proposed rule, the Commission would balance the need of the requesting party to access the non-public materials to participate effectively in a Commission proceeding against the Postal Service's or third party with a proprietary interest's evidentiary privileges under Federal Rule of Civil Procedure 26(c).

In discovery under the Commission's rules, *see* 39 CFR 3001.25 *et seq.*, there is a private right balanced against a private right, similar to the balancing routinely undertaken by Federal courts in civil litigation during discovery. Due to the need for disclosure for efficient operation of discovery (both in civil litigation and in Commission proceedings), the scales are tipped in favor of disclosure.[17] To offset the possible harm visited by this greater need for disclosure, the Commission may issue a protective order similar to those employed under Federal Rule of Civil Procedure 26(c) during Federal civil litigation.[18] Under Federal Rule of Civil Procedure 26(c), a party or person may, during the discovery process, request a protective order. Federal Rule of Civil Procedure 26(c) lists several possible procedures to limit discovery and ensure confidentially of information, including (1) completely forbidding the disclosure; (2) specifying terms for disclosure; for example, specifying the time and/or place of discovery; (3) ordering a specific method of discovery; (4) limiting the scope of discovery as it relates to certain matters; (5) limiting who may be present during discovery; (6) sealing a deposition; and (7) requiring that a trade secret or other confidential information be revealed only in a specific and limited manner.

Finally, there are different rights at issue and interests to be balanced in the context of the Commission's ACD proceeding under chapter 36 of title 39

[16] Information and materials required to be provided to the Commission in response to a subpoena that the Postal Service determines to be exempt are subject to the same rules under proposed part 3007 as information or materials provided in response to a data or information request. *See* 39 U.S.C. 504(f), (g).

[17] *See e.g., Washington Post* v. *U.S. Dept. of Health and Human Services*, 690 F.2d 252 at 258 (discussing the difference between discoverability in litigation and disclosure under FOIA: ''[i]t is well established that information that is exempt from disclosure to the general public under FOIA may nevertheless be subject to discovery.''

[18] In application of the proposed disclosure rule, the decision-maker will also take into account relevant factors such as the procedural stage a matter is in (for example, discovery versus a formal hearing before the Commission) when deciding whether protection or non-disclosure of materials sought by the Postal Service is appropriate. Another factor to be considered is whether the information at issue relates to market dominant or competitive products.

of the U.S. Code. The Commission proposes another distinct test, applicable when there is not an active proceeding, for requests for access to non-public materials that are relevant to developing comments for use in a current or future ACD proceeding. This avenue will allow persons, outside of a Commission proceeding, to receive access to non-public materials relevant to an understanding or review of a past ACD proceeding or participation in an ongoing or upcoming ACD proceeding.

Proposed rule 3007.52 announces the standard for decision for requests made for ACD relevant materials, outside of a Commission proceeding. This rule balances the Postal Service's or any third party with a proprietary interest in the materials' evidentiary privileges against the requesting party's need for the materials to participate effectively in a compliance determination or understand the intricacies of a completed ACD, and the public interest in transparency of Commission proceedings. Public participation in the ACD is directly called for by the PAEA. *See* 39 U.S.C. 3653(a). The Commission finds as a result of recent experience that a publicly published method to access materials relevant to compliance, outside of discovery in a proceeding, is necessary for effective public participation and transparency in the ACD process.

PSA, PostCom, DMA, MOAA, Time Warner, NPPC, MPA, ANM, Pitney Bowes, and GCA comment about the need for protection of third party non-public materials submitted to the Postal Service. These comments result in the change and reformatting of several proposed rules. Under the Commission's new proposed rules, the Postal Service would have a duty to notify a third party with a proprietary interest in materials filed with the Commission at the time of filing. The notice requirement should not unduly burden the Postal Service as it maintains a record of contacts for third parties with proprietary interests in materials it holds for FOIA purposes. *See* Postal Service Comments at 10–11. The third party with a proprietary interest in non-public materials would be afforded the same opportunity to respond to requests for access or early termination of non-public status as the Postal Service.

The Commission also adopted other additions, clarifications, and improvements based on public comments and other developments. The Commission adds proposed rule 3007.10(c) to clarify that the Postal Service should use the ''black box'' or ''graphical'' method of redaction as the preferred method of redaction. In an instance where the Postal Service can show likely competitive harm from the use of the ''black box'' method, it must indicate at the site of each redaction the amount of materials redacted (in number of lines or pages).[19] Proposed rule 3007.3(b) allows a person to request that the Commission issue a data or information request to the Postal Service. Proposed rule 3007.10(b) allows the Postal Service to submit redacted word processing documents in PDF format. Proposed rules 3007.40 and 3007.50 require submitters to identify relevant affiliations (such as employment, consultant, or contractual relationships).

Initial comments are due within 30 days of the publication of this notice in the **Federal Register**. Reply comments are due within 45 days of the publication of this notice in the **Federal Register**.

VII. Analysis of Proposed Rules

Below, the Commission provides a concise description of each rule, designed to assist commenters in understanding the scope and nature of the proposed rules and changes.

Rule 3007.1 Definitions. This provision sets forth definitions of terms used in part 3007. The term ''non-public materials'' is defined as any information, documents, and things filed by the Postal Service which, pursuant to 39 U.S.C. 504(g), it determines to be exempt from disclosure. The term is also used to describe materials submitted by the Postal Service in which a third party has a proprietary interest, *i.e.*, the third party believes is protectable under Federal Rule of Civil Procedure 26(c). As used in the rules, the phrase ''materials claimed to be non-public'' has the same meaning as non-public materials.

Rule 3007.2 Scope. This provision sets forth the scope of information, documents, and things that the Commission (or its authorized representative) may require the Postal Service to provide in connection with the Commission's responsibilities under title 39 of the U.S. Code. It is intended to encompass information, documents, and things in whatever form likely to materially assist the Commission in fulfilling its statutory responsibilities.

Rule 3007.3 Data or information requests. This proposed rule provides that the Commission, or its authorized representative, may issue data or information requests to the Postal Service concerning materials covered by proposed rule 3007.2. The rule has changed since Order No. 96 in that it also allows persons to request that the Commission issue a data or information request. These proposed rules only allow for persons to request access to materials or disclosure of materials after the materials have been filed with the Commission. This rule provides a mechanism for relevant materials to be filed with the Commission concurrent or prior to a request for access (under proposed rules 3007.40 or 50) or early termination of non-public status (under proposed rule 3007.31). In justifying a request made pursuant to this rule, the movant should indicate whether it expects a request under proposed rule 3007.31, 3007.40, or 3007.50 will be made and a detailed statement of support explaining how the materials sought will be relevant and material to the Commission's duties under title 39 of the U.S. Code.

Rule 3007.10 Submission of non-public materials under seal. This proposed rule sets forth the manner in which non-public materials are to be filed with the Commission. More specifically, it provides that non-public materials are not to be filed electronically pursuant to rule 3001.9, but are to be filed in sealed envelopes clearly marked as confidential. The proposed rule requires non-public materials to be filed in hard copy as well as electronic form (compact discs), with the latter subject to certain conditions to ensure their utility. In addition, the proposed rule requires that a redacted copy of the non-public materials be filed electronically pursuant to rule 3001.9. Changes to the rule since Order No. 96 require that when the Postal Service files redacted copies of non-public materials in electronic form, they must be in a searchable format (such as searchable Adobe PDF format), but spreadsheets, data files, or programs must be in native format. The method of redaction for hard copy submissions under this rule shall be the ''black box'' or ''graphical'' redaction method unless the Postal Service identifies particular, likely commercial injury which may result from the use of such a method. If any other method is used, the Postal Service must indicate, at the site of each redaction, in lines or pages, the amount of material removed.

Rule 3007.20 Application for non-public treatment. This provision directs

[19] As a means of comparison, when processing FOIA requests, the Department of Defense utilizes the ''black box'' and other redaction methods which do not involve disguising the amount of material redacted. *See* ''Sanitization Procedures'' *http://www.dod.mil/pubs/foi/dfoipo/docs/NewRedactionPolicy.pdf.*

the Postal Service to file an application for non-public treatment whenever it files non-public materials. It also instructs the Postal Service to contact any third party which may have a proprietary interest in the information being filed with the Commission to give that party an opportunity to file an application for non-public treatment, and address its confidentiality concerns directly with the Commission.

Rule 3007.21 Content of the Postal Service application for non-public treatment. This proposed rule requires the Postal Service to identify the materials it asserts are non-public and to provide a detailed statement in support thereof, addressing, among other things, the rationale for the claim, including the statutory authority, the nature and extent of any commercial harm, a hypothetical example of such harm, the extent of public protection from public disclosure deemed necessary, and any other factors relevant to the application for non-public treatment.

Rule 3007.22 Content of third-party applications for non-public treatment. This proposed rule gives guidance to a third party with a proprietary interest in non-public materials on the content of an application for non-public treatment. The proposed rule directs the third party to provide justification for non-public treatment of materials it believes should not be publicly disclosed or accessed.

Rule 3007.23 Treatment of non-public materials. This proposed rule provides that the Commission will not disclose non-public materials except as pursuant to the rules in part 3007.

Rule 3007.24 Commission access to non-public materials. This proposed rule permits Commissioners, Commission employees, including the public representative, other persons assisting the Commission in carrying out its statutory duties, and reviewing court personnel access to non-public materials subject to the limitations in 39 U.S.C. 504(g)(2)(A) and (B). Access to non-public materials for all persons not covered by this rule is by motion under proposed rules 3007.40 and 3007.50.

Rule 3007.25 Use of non-public materials. This proposed rule states that persons with access to non-public materials under proposed rule 3007.24, except as pursuant to this part, may not use non-public materials for purposes other than for which they were supplied or allow any other person to have access to the non-public materials.

Rule 3007.30 Termination of non-public status. This proposed rule states that non-public status shall expire 10 years after filing, unless otherwise provided by the Commission or its authorized representative.

In the context of FOIA requests under rule 3004.8, the Commission provides that information submitted to the Commission and claimed to be exempt from disclosure under 5 U.S.C. 552(b) (namely, trade secrets or commercially or financially sensitive materials) will lose any such exemption 10 years after its submission. The Commission believes that a 10-year sunset provision in this instance will also serve administrative convenience and sound records management practices while adequately protecting the commercial interest of the Postal Service.

Rule 3007.31 Request for early termination of non-public status. This proposed rule states that any person may request that the Commission remove non-public status from materials filed by the Postal Service. This proposed rule gives details of the form and procedure of such a request. The request for early termination of non-public status must specifically address the Postal Service claims in its application for non-public treatment.

If a request for early termination of non-public status is made, the Postal Service or any third party with a proprietary interest may submit an answer within 7 days (or such longer period as specified in the notice). Given the expedited timetables under which the Commission ordinarily operates, this proposed rule does not allow any filings after the initial answers. Thus, requests and answers should address all issues relevant to whether the non-public materials should be publicly disclosed. Following the receipt of the answers, if any, the Commission will issue an order concerning the appropriate status of the non-public materials.

Rule 3007.32 Preliminary determination of non-public status. This proposed rule recognizes that as a matter of course, the Commission will review Postal Service materials designated as non-public for substance, and in the course of such review may have cause to question the claim that part or all of the materials should not be disclosed. Thus, the proposed rule provides that the Commission may issue a notice of preliminary determination concerning the appropriate degree of protection, if any, to be accorded non-public materials filed by the Postal Service.[20]

If a preliminary determination of non-public status is made, the Postal Service or any third party with a proprietary interest may submit an answer within 7 days (or such longer period as specified in the notice). Given the expedited timetables under which the Commission ordinarily operates, this proposed rule does not allow any filings after the initial answers. Thus, those answers should address all issues relevant to whether the non-public materials should be publicly disclosed. Following the receipt of the answers, if any, the Commission will issue an order concerning the appropriate status of the non-public materials.

Rule 3007.33 Standard for decision for early termination of non-public status. Subsection (a) of this proposed rule sets out the balancing test prescribed in 39 U.S.C. 504(g)(3)(A) for determining the appropriate degree of confidentiality to be accorded Postal Service non-public materials for which a request for early termination of non-public status or a preliminary determination of non-public status has been made. Paragraph (b) of this section sets out the balancing test, adapted from 39 U.S.C. 504(g)(3)(A), applicable to a request for early termination of non-public status for materials in which the Commission determines that a third party has proprietary interest.

Rule 3007.40 Request for access to non-public materials. Any person, during a Commission proceeding and pursuant to the Commission's rules of practice, may make a motion to request access to non-public materials filed by the Postal Service under 39 U.S.C. 504(g)(1). Any person requesting access must file a motion, which must include a detailed statement in support of granting access. The person requesting access must identify all relevant affiliations, including employer, organization, agency or contractual relationships, and ties to the delivery services, communications, or mailing industry.[21]

Given the expedited timetables under which the Commission generally operates, the proposed rules contemplate procedures that will expedite the process. Thus, the proposed rule provides that the person submitting the motion may agree in advance to execute and attach sample Commission protective conditions. In

[20] This aspect of the rule is designed to enable the Commission to address claims of confidentiality by the Postal Service or a third party on its own initiative. It is not intended to imply that the Commission will necessarily make a preliminary determination with respect to each filing by the Postal Service of non-public materials.

[21] Industry affiliations of the party requesting access to materials designated as protected by the Postal Service are disclosed to enable the Postal Service to determine whether to object in the context of an expedited matter.

that event, answers to the motion are due within 3 days.[22]

Recognizing that protective conditions may vary based on the nature of the non-public materials at issue, the Commission encourages any person attaching protective conditions to tailor the conditions to fit that situation, *e.g.*, limiting access to competitive information to certain individuals. Persons attaching protective conditions should describe those conditions, particularly alterations to the standard form. If an executed copy of the sample Commission protective conditions is not attached, answers to the motion are due in 7 days. Following the filing of the answer, the Commission will issue an order concerning access to the non-public materials, or, if protective conditions are approved by the Postal Service or third party with a proprietary interest, the Commission or its authorized representative will grant access subject to the agreed protective conditions.

Rule 3007.41 Termination of access to non-public materials. This proposed rule states that access terminates for all persons with access under proposed rule 3007.40 when the proceeding during which the materials were requested ends (by Commission order or report) or the person otherwise withdraws or ceases to be involved in the proceeding. This proposed rule also allows a person who has access under proposed rule 3007.40 to maintain access, subject to any applicable protective conditions, while that person waits for the Commission or its authorized representative to rule on a motion to continue access made under proposed rule 3007.50.

Rule 3007.42 Standard for decision for request for access to non-public materials. This proposed rule creates a balancing test to establish procedures to accord appropriate confidentiality as authorized by 39 U.S.C. 504(g)(3)(B). This test directs the Commission to balance the interests of the parties, similar to balancing done in Federal civil litigation under Federal Rule of Civil Procedure 26(c). The standard balances the need of the requesting party to have access to participate effectively in a Commission proceeding against the Postal Service's or third party with a proprietary interest in the materials' rights derived from rule 26 of the Federal Rules of Civil Procedure.

Rule 3007.50 Request for access to non-public materials relevant to compliance. This proposed rule provides procedures for any interested person to request access to non-public materials, relevant to the ACD, when outside an ongoing Commission proceeding. This proposed rule also allows a person who has access subject to protective conditions (under proposed rules 3007.40 or 3007.50) to file a motion to continue access if the materials are relevant to compliance under 39 U.S.C. 3653. Any person requesting access must file a motion, which includes a statement justifying why access should be granted, and stating how the requested materials are relevant to the Commission's annual determination of compliance under 39 U.S.C. 3653. As with proposed rule 3007.40, the person requesting access must identify all relevant affiliations to assist the Postal Service in determining whether to object to access.

Given the expedited timetables under which the Commission generally operates, the proposed rules contemplate procedures that will expedite the process. Thus, the proposed rule provides that the person submitting the motion may execute and attach to the motion the sample Commission protective conditions. In that event, answers to the motion are due within 3 days. Recognizing that protective conditions may vary based on the nature of the non-public materials at issue, the Commission encourages any person attaching protective conditions to tailor the conditions to fit that situation, *e.g.*, limiting access to competitive information to certain individuals. Persons attaching protective conditions should describe those conditions, particularly alterations to the standard form. If a copy of the sample Commission protective conditions is not attached, answers to the motion are due in 7 days. Following the filing of any answers, the Commission will issue an order concerning access to the non-public materials, or, if protective conditions are approved by the Postal Service or third party with a proprietary interest, the Commission or its authorized representative will grant access subject to the agreed protective conditions.

Under this proposed rule, a person previously granted access to materials under this proposed rule could make renewed requests for access to non-public materials.

Rule 3007.51 Termination of access to non-public materials relevant to compliance. This proposed rule states that access terminates for all persons with access under proposed rule 3007.50 when the Commission issues its next ACD or the person otherwise withdraws or ceases to be involved. This proposed rule also allows a person who has access under proposed rule 3007.50 to maintain access, subject to any applicable protective conditions, while that person waits for the Commission to rule on a motion to continue access made under proposed rule 3007.50.

Rule 3007.52 Standard for decision for request for access to non-public materials relevant to compliance. This proposed rule creates a balancing test to establish the procedures to accord appropriate confidentiality when determining restrictions on the amount or conditions of access to materials requested by a person which are relevant to the ACD. The standard instructs the Commission to balance the parties' interests, similar to balancing done by the Federal courts under Federal Rule of Civil Procedure 26(c). Such balancing may weigh the requesting party's need to access the materials to participate effectively in determining compliance against the Postal Service's interests derived from Federal Rule of Civil Procedure 26(c).

Rule 3007.60 Limitations on access to non-public materials. This proposed rule identifies various limitations on access to non-public materials that may be ordered by the Commission pursuant to 39 U.S.C. 504(g)(3)(B). These limitations, which are generally similar to relief provided by Federal civil courts in discovery disputes under rule 26(c) of the Federal Rules of Civil Procedure include, *inter alia*, not requiring the public disclosure of the materials, specifying the terms for public disclosure, ordering a specific method of disclosure, restricting to whom the information may be disclosed, specifying a time when access terminates, and such other relief as the Commission deems appropriate.

Rule 3007.61 Continued effectiveness of protective conditions. This proposed rule specifies procedures to be followed if a court or other administrative agency subpoenas (or otherwise orders production of) non-public materials which a person has obtained pursuant to a protective order issued by the Commission. This proposed rule requires that any person seeking to disclose non-public materials to a reviewing court make a good faith effort to obtain protective conditions in accord with those prescribed by the Commission. The proposed rule also provides that unless overridden by the reviewing court, the protective conditions of the Commission (or its authorized representative) remain in effect. The procedures require notice to the Postal Service.

[22] Consistent with the Commission's rules, any prescribed time period of 5 days or less excludes Saturdays, Sundays, and legal holidays. *See* rule 3001.15.

Rule 3007.62 Sanctions for violations of protective conditions. This proposed rule reiterates the protective conditions, barring the dissemination of non-public materials by every person granted access to such materials to any person not authorized to access such materials. The sanctions include dismissing the proceeding in whole or part, issuing a default judgment against the violator of the protective conditions, and such other relief as the Commission (or its authorized representative) deems appropriate. In addition, the rule provides that the Postal Service may pursue whatever remedies may be available to it under law against the violator as well as the entity on whose behalf that person was acting.

VIII. Public Representative

Pursuant to 39 U.S.C. 505, Kenneth E. Richardson remains the officer of the Commission (Public Representative) to represent the interests of the general public in the captioned docket.

IX. Ordering Paragraphs

It is Ordered:

1. Interested persons may submit initial comments no later than 30 days from the date of publication of this notice in the **Federal Register**.
2. Reply comments may be filed no later than 45 days from the date of publication of this notice in the **Federal Register**.
3. The Secretary shall arrange for publication of this notice in the **Federal Register**.

List of Subjects in 39 CFR Part 3007

Administrative practice and procedure, Confidential business information, Postal Service.

By the Commission.

Steven W. Williams,

Secretary.

For the reasons discussed above, the Commission proposes to amend 39 CFR chapter III by adding part 3007 to read as follows:

PART 3007—TREATMENT OF NON-PUBLIC MATERIALS PROVIDED BY THE POSTAL SERVICE

Sec.

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Appendix A to Part 3007—Statement of Compliance with Protective Conditions

Authority: 39 U.S.C. 504.

§ 3007.1 Definitions.

For purposes of this part:

(a) *Authorized representative* means any Commissioner designated by the Chairman, any administrative law judge appointed by the Commission under 5 U.S.C. 3105, and any employee of the Commission designated by the Commission. The authorized representative may administer oaths, examine witnesses, take depositions, and receive evidence with respect to any proceeding before the Commission under title 39 of the U.S. Code or obtain information to assist the Commission in the preparation of a report or performance of a function under title 39 of the U.S. Code.

(b) *Non-public materials* means any information, documents, and things filed with the Commission which are claimed to be exempt from disclosure by the Postal Service pursuant to 39 U.S.C. 504(g), 3652(f) or 3654(f), or claimed to be protectable under Federal Rule of Civil Procedure 26(c) by a third party with a proprietary interest in the materials.

§ 3007.2 Scope.

The Commission or its authorized representative may require the Postal Service to provide any information, documents, and things in its possession or control, or any information, documents, and things that it can obtain through reasonable effort and expense, that are likely to materially assist the Commission in its conduct of proceedings, in its preparation of reports, or in performance of its functions under title 39 of the U.S. Code. Information, documents, and things the Postal Service may be required to provide, include, but are not limited to, paper hard copy and electronically stored data and materials—including writings, notes, e-mails, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations—stored in any medium from which information can be obtained either directly or, if necessary, after translation into a reasonably usable form; or any tangible things.

§ 3007.3 Data or information requests.

(a) The Commission or its authorized representative may issue data or information requests to the Postal Service seeking information, documents, and things covered by § 3007.2. A data or information request shall describe the documents, information, and things sought, briefly explain the reason for the request, and specify a timeframe for receiving the requested information and materials.

(b) Any person may request that the Commission issue a data or information request for documents, information, and things covered by § 3007.2 by filing a motion with the Commission, pursuant to § 3001.21 of this chapter, which describes the documents, information, and things sought, explains the reasons the Commission should make the request, and includes a statement of how the materials sought are relevant and material to the Commission's duties under title 39 of the U.S. Code.

§ 3007.10 Submission of non-public materials under seal.

(a) Non-public materials shall not be filed electronically pursuant to § 3001.9 of this chapter, but shall be filed in sealed envelopes clearly marked ''Confidential. Do Not Post on Web.'' The person filing the non-public materials shall submit two copies consisting, where practicable, of two paper hard copies as well as two copies in easily usable electronic form such as compact discs (CDs) or digital video discs (DVDs) of the non-public materials which shall also be clearly marked ''Confidential. Do Not Post on Web.'' Spreadsheets submitted in electronic form shall display the formulas used, their links to related spreadsheets, and shall not be password protected. All workpapers or data shall be submitted in a form, and be accompanied by sufficient explanation and documentation to allow them to be replicated using a publicly available PC

application. Each page of any paper hard copy non-public materials submitted shall be clearly marked as non-public.

(b) The person submitting the non-public materials shall also file an electronic public (redacted) copy of the non-public materials pursuant to § 3001.9 of this chapter. The electronic public (redacted) copy of the materials which are not spreadsheets, data files, or programs must be submitted in a searchable electronic format, but need not be submitted in its native format. As part of its publicly available electronic filing, the Postal Service must appropriately redact materials that contain both public and non-public information. For example, the Postal Service may not identify a whole page or a whole table as non-public materials if the page or table contains both public and non-public information, but must redact only the information it claims to be non-public. If practicable, the Postal Service shall sequentially number each page of the materials identified as non-public.

(c) The Postal Service shall use the graphical redaction (blackout) method for all redacted materials. Should the Postal Service wish to use any other method, it must state with particularity the competitive harm associated with use of the graphical redaction method to justify the use of any other method, and indicate the number of lines or pages removed at each redaction.

(d) The Postal Service shall mark each page, item, and thing, or portion thereof, that it seeks to protect from disclosure in a manner reasonably calculated to alert custodians to the confidential nature of the information or materials.

§ 3007.20 Application for non-public treatment.

(a) Whenever the Postal Service files non-public materials with the Commission, it shall at the same time file an application for non-public treatment under § 3007.21.

(b) Before the Postal Service files non-public materials with the Commission which the Postal Service has reason to believe may implicate a third-party proprietary interest, the Postal Service shall inform each such third party:

(1) Of the nature and scope of the filing with the Commission, including the pertinent docket, and

(2) That it may address its confidentiality concerns directly with the Commission.

(c) A third party with a proprietary interest in the materials may, if it deems necessary, independently seek non-public treatment under § 3007.22.

§ 3007.21 Content of the Postal Service application for non-public treatment.

(a) Whenever the Postal Service files non-public materials with the Commission, it must submit an application for non-public treatment that clearly identifies all non-public materials and describes the circumstances causing them to be submitted to the Commission.

(b) An application for non-public treatment is to fulfill the burden of persuasion that the non-public materials should be withheld from the public.

(c) The application for non-public treatment must include a specific and detailed statement setting forth:

(1) The rationale for claiming that the materials are non-public, including the specific statutory basis for the claim, and a statement justifying application of the provision(s);

(2) A description of the materials claimed to be non-public in a manner that, without revealing the materials at issue, would allow a person to thoroughly evaluate the basis for the claim that they are non-public;

(3) Particular identification of the nature and extent of commercial harm alleged and the likelihood of such harm;

(4) At least one specific hypothetical, illustrative example of each alleged harm;

(5) The extent of protection from public disclosure deemed to be necessary;

(6) The length of time deemed necessary for the non-public materials to be protected from public disclosure with justification thereof; and

(7) Any other factors or reasons relevant to support the application.

§ 3007.22 Content of third-party application for non-public treatment.

(a) The application for relief from public disclosure submitted by a party other than the Postal Service must clearly identify all materials believed to be protected from disclosure.

(b) The application for non-public treatment must include a specific and detailed statement setting forth:

(1) A description of the materials claimed to be non-public in a manner that, without revealing the materials at issue, would allow a person to thoroughly evaluate the basis for the claim that they are non-public;

(2) Particular identification of the nature and extent of the harm alleged and the likelihood of such harm; and

(3) Any other factors or reasons relevant to support the application.

§ 3007.23 Treatment of non-public materials.

The Commission or its authorized representative will not publicly disclose or grant access to non-public materials except as provided in the rules of this part.

§ 3007.24 Commission access to non-public materials.

(a) Non-public materials may be disclosed to the following persons:

(1) Members of the Commission;

(2) Commission employees including a public representative carrying out their appropriate responsibilities;

(3) Contractors, attorneys, or other subject matter experts assisting the Commission in carrying out its statutory duties;

(4) Reviewing courts and their staffs; or

(5) Court reporters, stenographers, or persons operating audio or video recording equipment for such court reporters or stenographers at hearings or depositions.

(b) Access to non-public materials for all persons not covered by this section is pursuant to §§ 3007.40 and 3007.50.

§ 3007.25 Use of non-public materials.

Except as pursuant to this part, persons with access to non-public materials under § 3007.24 may not:

(a) Use such materials for purposes other than the purposes for which they are supplied.

(b) Permit anyone who is not allowed access under § 3007.24 to have access to any such materials.

§ 3007.30 Termination of non-public status.

Ten years after the date of filing with the Commission, non-public materials shall lose non-public status unless the Commission or its authorized representative enters an order extending the duration of that status.

§ 3007.31 Request for early termination of non-public status.

(a) Any person may make a request to the Commission that non-public materials be publicly disclosed. Each such request shall provide a specific and detailed statement justifying why the non-public materials should be made public giving specific recognition to any pertinent rationale(s) provided in the application for relief submitted pursuant to § 3007.21 or § 3007.22. The request, however, shall not publicly disclose any of the non-public materials. If it is necessary to use the non-public materials to formulate the argument in favor of public disclosure, the argument utilizing the non-public materials shall be filed under seal.

(b) Any interested person, including the Postal Service, may file a response to the request within 7 days after such

a request is filed, unless a longer period is specified by the Commission.

(c) Unless the Commission otherwise provides, no reply to a response filed pursuant to paragraph (a) of this section shall be filed.

(d) Following the filing of responses, if any, the Commission will issue an order determining the appropriate degree of protection, if any, to be accorded to the materials claimed to be non-public by the Postal Service or third party with a proprietary interest in the materials.

§ 3007.32 Preliminary determination of non-public status.

(a) Whenever the Postal Service files non-public materials, the Commission may issue a notice of preliminary determination concerning the appropriate degree of protection, if any, to be accorded to such materials.

(b) Any interested person, including the Postal Service, may file a response to the Commission's notice of preliminary determination within 7 days after such a notice is filed, unless a longer period is specified.

(c) Unless the Commission otherwise provides, no reply to a response filed pursuant to paragraph (b) of this section shall be filed.

(d) Following the filing of responses, if any, the Commission will issue an order determining the appropriate degree of protection, if any, to be accorded to the materials claimed to be non-public by the Postal Service or third party with a proprietary interest in the materials.

§ 3007.33 Standard for decision for early termination of non-public status.

(a) In determining whether to publicly disclose non-public materials filed by the Postal Service, the Commission shall balance the nature and extent of the likely commercial injury identified by the Postal Service against the public interest in maintaining the financial transparency of a government entity competing in commercial markets.

(b) In determining whether to publicly disclose non-public materials in which the Commission determines a third party has a proprietary interest, the Commission shall balance the interests of the parties based on Federal Rule of Civil Procedure 26(c).

§ 3007.40 Request for access to non-public materials.

(a) During a Commission proceeding, any person may file a motion pursuant to § 3001.21 of this chapter requesting access to non-public materials. The motion shall include:

(1) A detailed statement providing justification for access; and

(2) A list of relevant affiliations, including employment or other relationship (including agent, consultant or contractor) with the party requesting access, and whether that party is affiliated with the delivery services, communications or mailing industries.

(b) To expedite the process, each person seeking access to non-public materials may attach to the motion an executed copy of the sample Commission protective conditions as provided in Appendix A of this part.

(1) If an executed copy of the sample Commission protective conditions is attached, answers are due within 3 days after such a motion is filed.

(2) If an executed copy of the sample Commission protective conditions is not attached, answers are due within 7 days after such a motion is filed.

(c) Unless the Commission otherwise provides, no reply to an answer filed pursuant to paragraph (b)(1) or paragraph (b)(2) of this section shall be filed.

(d) Following the filing of answers, if any:

(1) The Commission will issue an order allowing or denying access and setting forth the appropriate protective conditions, if any, to be accorded non-public materials, or

(2) If the Postal Service or third party with a proprietary interest does not contest a person's access subject to agreed protective conditions, the Commission or its authorized representative may issue an order allowing access subject to the agreed protective conditions.

§ 3007.41 Termination of access to non-public materials.

(a) Except as provided in paragraph (b) of this section, access to non-public materials obtained under § 3007.40 terminates either when the Commission issues a final order or report in the relevant proceeding or the person withdraws or is otherwise no longer involved in the proceeding, whichever occurs first. For purposes of this section, an order or report is not considered final until after the possibility of judicial review expires.

(b) Access to non-public materials shall continue for persons seeking continued access under § 3007.50.

(c) Upon termination of access under paragraph (a) of this section, all non-public materials in a person's possession must be destroyed, and the form attached to the protective conditions certifying destruction must be executed and filed with the Commission.

§ 3007.42 Standard for decision for request for access to non-public materials.

In determining whether to grant a request for access to non-public materials, the Commission shall balance the interests of the parties based on Federal Rule of Civil Procedure 26(c).

§ 3007.50 Request for access to non-public materials relevant to compliance.

(a) Any person may file a motion pursuant to § 3001.21 of this chapter requesting access to, or continued access to, non-public materials relevant to compliance under 39 U.S.C. 3653. The motion shall include:

(1) A detailed statement providing justification for access, including reference to the materials' relevance to compliance under chapter 36 of title 39 of the U.S. Code; and

(2) A list of relevant affiliations, including employment or other relationship (including agent, consultant or contractor) with the party requesting access, and whether that party is affiliated with the delivery services, communications or mailing industries.

(b) To expedite the process, each person seeking access to non-public materials may attach to the motion an executed copy of the sample Commission protective conditions as provided in Appendix A of this part.

(1) If an executed copy for the sample Commission protective conditions is attached, answers are due within 3 days after such a motion is filed.

(2) If an executed copy of the sample Commission protective conditions is not attached, answers are due within 7 days after such a motion is filed.

(c) Unless the Commission otherwise provides, no reply to an answer filed pursuant to paragraph (b)(1) or paragraph (b)(2) of this section shall be filed.

(d) Following the filing of answers, if any:

(1) The Commission will issue an order allowing or denying access and setting forth the appropriate protective conditions, if any, to be accorded the non-public materials, or

(2) If the Postal Service or third party with a proprietary interest does not contest a person's access subject to agreed protective conditions, the Commission or its authorized representative may issue an order allowing access subject to the agreed protective conditions.

§ 3007.51 Termination of access to non-public materials relevant to compliance.

(a) Access to non-public materials obtained under § 3007.50 terminates either when the Commission issues its

next Annual Compliance Determination (ACD) or the person withdraws or is otherwise no longer involved in the relevant proceeding, whichever occurs first.

(b) Access to non-public materials shall continue for persons seeking continued access under § 3007.50.

(c) Upon termination of access under paragraph (a) of this section, all non-public materials in a person's possession must be destroyed, and the form attached to the protective conditions certifying destruction must be executed and filed with the Commission.

§ 3007.52 Standard for decision for request for access to non-public materials relevant to compliance.

In determining whether to grant a request for access to non-public materials relevant to compliance, the Commission shall balance the interests of the parties based on Federal Rule of Civil Procedure 26(c).

§ 3007.60 Limitations on access to non-public materials.

To afford appropriate confidentiality to non-public materials during any stage of a proceeding before the Commission, or in connection with any other purpose under title 39 of the U.S. Code, the Commission may, based on Federal Rule of Civil Procedure 26(c):

(a) Prohibit the public disclosure of the non-public materials;

(b) Specify terms for public disclosure of the non-public materials;

(c) Order a specific method for disclosing the non-public materials;

(d) Restrict the scope of the disclosure of the non-public materials as they relate to certain matters;

(e) Restrict who may have access to non-public materials;

(f) Require that a trade secret be revealed only in a specific and limited manner or to limited or specified persons; and

(g) Order other relief as appropriate including, but not limited to, sealing a deposition or part of a proceeding.

§ 3007.61 Continued effectiveness of protective conditions.

(a) If a court or other administrative agency subpoenas or orders production of non-public materials which a person has obtained under protective conditions ordered by the Commission, the target of the subpoena or order shall, within 2 days of receipt of the subpoena or order for production, notify the Postal Service of the pendency of the subpoena or order to allow the Postal Service time to object to the production or to seek a protective order or seek such other relief as it deems appropriate.

(b) Any person seeking to disclose non-public materials to a reviewing court shall make a good faith effort to obtain protective conditions at least as effective as those set forth in the Commission order establishing the protective conditions.

(c) Protective conditions ordered by the Commission or its authorized representative shall remain in effect throughout any subsequent review unless overridden by the action of the reviewing court.

§ 3007.62 Sanctions for violations of protective conditions.

(a) No person who has been granted access to materials subject to protective conditions shall disseminate the materials in whole or in part to any person not authorized to obtain access under the protective conditions imposed by the Commission. If a person who has been granted access to such non-public materials under a protective order violates the terms of such order, the Commission or its authorized representative shall impose sanctions on the person who violated the protective order or the individuals or entities on whose behalf the person was acting, or both. The sanctions may include:

(1) Dismissing the proceeding in whole or in part;

(2) Ruling by default against the person who violated the protective order; and

(3) Such other sanctions as the Commission or its authorized representative deems appropriate.

(b) The Postal Service, in its discretion, may pursue any remedies available to it under the law against the individual who violated the protective order, or the individuals or entities on whose behalf the person was acting, or both.

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Appendix A to Part 3007—Statement of Compliance with Protective Conditions

The Postal Service has filed non-public materials identified as _____. The Postal Service requests confidential treatment of the materials (hereinafter "these materials").

The following protective conditions limit access to these materials identified as _____ by the Postal Service. Each person seeking to obtain access to these materials must agree to comply with these conditions, complete the attached certifications, and provide the completed certifications to the Commission and counsel for the Postal Service.

1. Access to these materials is limited to:

   (a) An employee of the Postal Regulatory Commission with a need-to-know; or

   (b) A person, as defined in rule 5(f), 39 CFR 3001.5(f), or an individual employed by such person, or acting as agent, consultant, contractor, affiliated person, or other representative of such person for purposes related to the matter identified as _____. However, no person involved in competitive decision-making for any entity that might gain competitive advantage from use of this information shall be granted access to these materials. "Involved in competitive decision-making" includes consulting on marketing or advertising strategies, pricing, product research and development, product design, or the competitive structuring and composition of bids, offers or proposals. It does not include rendering legal advice or performing other services that are not directly in furtherance of activities in competition with a person or entity having a proprietary interest in the protected material.

2. No person granted access to these materials is permitted to disseminate them in whole or in part to any person not authorized to obtain access under these conditions.

3. The final date of any person's access shall be the earlier of:

   (a) The date on which the Postal Regulatory Commission issues an order determining that access to these materials is no longer warranted.

   (b) The last date on which the individual who obtains access is under contract or retained or otherwise affiliated with the person on whose behalf access was authorized. The person on whose behalf the individual obtains access shall immediately notify the Postal Regulatory Commission and Postal Service counsel of the termination of any such business or consulting arrangement or retainer or affiliation.

4. Immediately after the Commission issues an order determining that access to these materials is no longer warranted, a person (and any individual working on behalf of that person) who has obtained a copy of these materials shall certify to the Commission:

   (a) That the copy was maintained in accordance with these conditions (or others established by the Commission); and

   (b) That the copy (and any duplicates) either have been destroyed or returned to the Commission.

5. The duties of each person obtaining access to these materials shall apply to material disclosed or duplicated in writing, orally, electronically, or otherwise, by any means, format, or medium. These duties shall apply to the disclosure of excerpts from or parts of the document, as well as to the entire document.

6. All persons who obtain access to these materials are required to protect the document by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized disclosure of the document as those persons, in the ordinary course of business, would be expected to use to protect their own proprietary material or trade secrets and other internal, confidential, commercially sensitive, and privileged information.

7. These conditions shall apply to any revised, amended, or supplemental versions of these materials provided in the matter identified as _____.

8. The duty of nondisclosure of each person obtaining access to these materials is continuing, terminable only by specific order of the Commission, or as specified in paragraphs 10 through 14, below.

9. Each person granted access to these materials consents to these or such other conditions as the Commission may approve.

10. The Postal Service shall clearly mark each page, or portion thereof, that it seeks to protect under this agreement in a manner reasonably calculated to alert custodians of the material to its confidential or proprietary nature. Except with the prior written consent of the Postal Service, or as hereinafter provided, no protected information may be disclosed to any person.

11. Any written materials that quote or contain materials protected under these protective conditions are also covered by the same protective conditions and certification requirements, and shall be filed with the Commission only under seal. Documents submitted to the Commission as confidential shall remain sealed while in the Secretary's office or such other place as the Commission may designate so long as they retain their status as stamped confidential documents.

12. Notwithstanding the foregoing, protected material covered by paragraph 11 may be disclosed to the following persons without their execution of a compliance certificate. Such disclosure shall not exceed the extent necessary to assist in prosecuting this proceeding or any appeals or reconsideration thereof.

    (a) Members of the Commission.

    (b) Court reporters, stenographers, or persons operating audio or video recording equipment for such court reporters or stenographers at hearings or depositions.

    (c) Any other person designated by the Commission in the interest of justice, upon such terms as the Commission may deem proper.

    (d) Reviewing courts and their staffs. Any person seeking to disclose protected information to a reviewing court shall make a good faith effort to obtain protective conditions at

least as effective as those set forth in this document. Moreover, the protective conditions set forth herein shall remain in effect throughout any subsequent review unless overridden by the action of a reviewing court.

13. A person may apply to the Commission for a ruling that documents, categories of documents, or deposition transcripts, stamped or designated as confidential, are not entitled to such status and protection. The Postal Service shall be given notice of the application and an opportunity to respond. Determinations on whether to revoke confidential status will be made in accordance with Commission regulations for the treatment of confidential materials.

14. If a court or other administrative agency subpoenas or orders production of confidential information which a person has obtained under the terms of this protective order, the target of the subpoena or order shall promptly (within 2 business days) notify the Postal Service of the pendency of the subpoena or order to allow it time to object to that production or seek a protective order.

CERTIFICATION

The undersigned represents that:

Access to these materials provided in the matter identified as _____ by the Postal Service has been authorized by the Commission. The cover or label of the copy obtained is marked with my name. I agree to use the information only for purposes of analyzing matters at issue in the matter identified as _____. I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name _____

Firm _____

Title _____

Representing _____

Signature _____

Date _____

CERTIFICATION

The undersigned represents that:

Access to these materials provided in the matter identified as _____ by the Postal Service has been terminated.

I certify that I have destroyed all materials subject to protective conditions, relevant to the above matter.

Name _____

Firm _____

Title _____

Representing _____

Signature _____

Date _____

[FR Doc. E9–6891 Filed 3–26–09; 8:45 am]
BILLING CODE 7710–FW–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 080102007–81097–01]

RIN 0648–AW18

Magnuson-Stevens Fishery Conservation and Management Act; Regional Fishery Management Councils; Operations

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes changes to the regulations that address the operations and administration of regional fishery management councils (Councils). The regulatory changes are needed to implement amendments to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) that, among other things, govern the Council Coordination Committee (CCC), expand the role of the Councils' Scientific and Statistical Committee (SSC), require that SSC members disclose their financial interests, and provide for training of Council members and staff. Additionally, the proposed rule would make changes to the regulations requiring Councils to provide procedures for proposed regulations, clarifying restrictions on lobbying, and clarifying timing in the Council member nomination process. The proposed rule would also make technical and minor corrections to the regulations unrelated to the most recent Magnuson-Stevens Act amendments.

DATES: Written comments must be received no later than 5 p.m. e.d.t. on July 6, 2009.

ADDRESSES: You may submit comments, identified by ''RIN 0648–AW18,'' by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov*.
- Fax: 301–713–1175.
- Mail: Alan Risenhoover, Director, Office of Sustainable Fisheries, National Marine Fisheries Service, 1315 East-West Highway, SSMC3, Silver Spring, MD 20910. Please mark the outside of the envelope ''Council Operations.''

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter n/a in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe pdf file formats only.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to the Office of Sustainable Fisheries at the mailing address or fax number specified above and by e-mail to *David__Rostker@omb.eop.gov*, or fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: William Chappell, at 301–713–2337.

SUPPLEMENTARY INFORMATION: Section 302 of the Magnuson-Stevens Act includes provisions for the establishment and administration of the Councils. The Magnuson-Stevens Act was reauthorized on January 12, 2007, with amendments throughout, and this proposed rule would implement some of the changes that were made to Section 302. Additionally, several issues regarding Council operations and membership have prompted proposed

changes to the regulations. Key aspects of the proposed rule are: requirements relative to the CCC; requirements for SSCs and financial interest reporting for SSC members; an update of Council and committee meeting announcement requirements; a requirement for Councils to have procedures for proposed regulations; designation of an alternate for the Indian tribal representative of the Pacific Fishery Management Council; requirements for nominating individuals to the Gulf of Mexico Fishery Management Council; revisions to the process and deadline for governors to submit Council member nominations to the Secretary; restrictions on direct or indirect lobbying by Council members, Council staff, and contractors; addition of lobbying and advocacy as types of financial interest activities that must be reported by affected individuals; and the requirement for new Council members to attend a training course. Additionally, the proposed rule would implement several minor changes in Magnuson-Stevens Act section 302, as well as a number of technical changes and minor corrections, unrelated to the reauthorization of the Act. Many of the key aspects of the proposed rule reiterate statutory requirements of the Magnuson-Stevens Act. NMFS is including this statutory text in regulations so that relevant Council process provisions both statutory and regulatory are presented together for ease of reference.

Statement of Organization, Practices and Procedures (SOPPs)

There have been continuing questions regarding Councils' SOPPs. The general public often does not understand the Councils' functions, how they are organized and what their limits are in fisheries management and policy. SOPPs have provided that information, but the public must go to the Council office for a copy or request a copy by mail. The increased use of the Internet makes it appropriate for the Councils to post their SOPPs on line. Therefore, NMFS proposes to amend § 600.115 to require that Council SOPPs be made available on the Internet. Additionally, NMFS proposes to clarify the regulatory sections with which the SOPPs must comply.

Council Coordinating Committee (CCC)

The proposed rule at a new § 600.117 would govern the CCC. The CCC consists of the chairs, vice chairs, and executive directors of each of the eight Councils or other Council members or staff, and discusses issues of relevance to all Councils, as specified in the Magnuson-Stevens Act at section 302(l). The CCC is exempt from the requirements of the Federal Advisory Committee Act. Procedures for announcing and conducting open and closed meetings of the CCC are reflected in § 600.135.

Scientific and Statistical Committees (SSCs)

This proposed rule addresses several changes in Magnuson-Stevens Act section 302(g)(1) regarding SSCs. Section 600.133 of the proposed rule requires SSC members, appointed by the Councils, to be Federal employees, State employees, academicians, or independent experts with strong scientific or technical credentials and experience. It also requires SSC meetings to be held in conjunction with Council meetings to the extent practicable.

Section 302(g)(1)(D) of the Magnuson-Stevens Act includes a new requirement that SSC members shall be treated as ''affected individuals'' for purposes of sections 302(j)(2), (3)(B), (4) and (5)(A) of the Act, which pertain to the disclosure of financial interests by affected individuals. Consistent with the Act, the proposed rule at § 600.235 would require an SSC member to file the Financial Interest Form with the NMFS Regional Administrator within 45 days prior to appointment and within 30 days of substantial changes to his/her financial interests and update his/her form annually. NMFS would retain the records for five years.

Sections 302(j)(5)(B-C), (6) and (7) of the Act include requirements for public inspection of, and access to, Council member Financial Interest Forms and recusals from voting. Because SSC members are not ''affected individuals'' for purposes of these sections, the proposed rule does not require that SSC members' Financial Interest Forms be made available for inspection or made available on the internet. In addition, the proposed rule states that SSC members are not subject to the restrictions on voting under § 600.235. The proposed rule also clarifies that SSC members are not automatically subject to the requirements of 18 U.S.C. 208, which pertains to actions affecting personal financial interests. Those requirements would only apply if a person is an officer or employee of the executive branch of the United States Government, or falls under another category of persons specified in that statute. NMFS seeks comments from the public on the proposed regulations that would affect the composition, purpose, and operation of the SSC, as well as the financial disclosure requirements for its members. Finally, existing regulations at § 600.235(h) provide that 18 U.S.C. 208 would also not apply to an affected individual who is in compliance with the requirements of that section for filing a financial disclosure report. Consistent with section 302(j)(8) of the Magnuson-Stevens Act, the proposed rule would clarify this exemption only applies to an affected individual ''who is a voting member of a Council appointed by the Secretary, as described under section 302(j)(1)(A)(ii) of the Magnuson-Stevens Act.''

Additional changes in Magnuson-Stevens Act section 302(g)(1)(A), (B) and (E) regard the function and roles of the SSC and the establishment of a peer review process. Some aspects of those changes were addressed in the National Standard 1 Guidelines revisions (74 FR 3178, January 16, 2009), which included guidance on annual catch limits and accountability measures and other aspects of overfishing and rebuilding. NMFS is continuing to explore other guidance that may be needed regarding these statutory changes.

Magnuson-Stevens Act section 302(g)(1)(F) requires the Secretary, subject to the availability of funds, to pay a stipend to members of SSCs and advisory panels who are not employed by the Federal Government or a State marine fisheries agency. NMFS seeks comment from the public on the implementation of stipends should funding be available. In addition to issues such as the amount and frequency of the payments, and what criteria must be satisfied for one to qualify for the stipend, NMFS seeks input from the public on the funding priority that should be given payment of the stipend, relative to the Councils' other financial obligations.

In anticipation of the stipend requirement, NMFS has begun to examine how Councils develop and use their SSCs, advisory panels, and other advisory committees. One concern has been that Councils use the terms ''advisory panel'' and ''advisory committee'' inconsistently. To help prepare for a clear analysis of the number and types of advisory committees and for a determination of who may be entitled to receive the stipend, NMFS proposes definitions in § 600.10 for an ''advisory panel'', which would be established pursuant to Magnuson-Stevens Act section 302(g)(2), and a ''fishing industry advisory committee'', established by a Council pursuant to section 302(g)(3)(A). In addition, definitions for ''Region,'' ''Regional Administrator,'' and ''Science and Research Director'' would be updated to reflect that there

are now 6 regions, each with a regional administrator and a science and research director.

Public Notice of Meetings

The proposed rule at § 600.135 would specify revised means for announcing meetings of a Council, SSC, advisory panels, other committees, and the CCC. The regulations currently require public notification specifically through the news media. The revised regulations would allow for notice of regular, emergency, and closed meetings by any means that will result, per section 302(i)(2)(c) of the Magnuson-Stevens Act, in wide publicity in the major fishing ports of the region and those other ports with an interest in any of the fisheries likely to be addressed in the proceedings. Also, the proposed rule stipulates that notices about regular and emergency meetings by website and e-mail postings alone are not sufficient.

Council Procedure for Proposed Regulations

A new § 600.140 is proposed to be added that would require each Council to establish clear internal procedures for proposed regulations, consistent with Magnuson-Stevens Act section 303(c). Section 303(c) pertains to the submission of proposed regulations to the Secretary which a Council deems necessary or appropriate for the purposes of implementing a fishery management plan or plan amendment and making modifications to regulations implementing a plan or plan amendment. Section 600.140 would require that each Council establish a clear procedure that sets forth how it deems proposed regulations as necessary or appropriate and also how it formally submits such regulations to the Secretary. Section 600.140 proposes that the procedure be described in the Council's SOPP or other written documentation available to the public to inform the public how it operates. The form and detail of the procedure may be prescribed by each Council, and may be based on any existing procedures as appropriate, subject to the requirements of the Magnuson-Stevens Act and approval by the Secretary.

Pacific Fishery Management Council Tribal Member Alternate

The proposed rule would establish a new section, § 600.207, to specify the conditions under which a tribal Indian representative to the Pacific Fishery Management Council may designate an alternate for the period of the representative's term. The requirements for designating an alternate would be similar to those of state members.

Gulf of Mexico Fishery Management Council Nominations

The proposed rule would specify new procedures in § 600.215 for nominating and appointing members to the Gulf of Mexico Fishery Management Council. Consistent with new language in the Magnuson-Stevens Act, the proposed rule requires the Governors of each Gulf state to ensure their list of nominees for appointment to the Council includes representatives of certain fishery sectors, as well as at least one other individual knowledgeable in fishery conservation and management. The rule also provides a process for the citizens of a Gulf coastal state to nominate individuals, should the Governor's nominees be determined by the Secretary to be unqualified for appointment.

Council Member Nomination Process

NMFS proposes to amend § 600.215 regarding the submission of Council member nominations by state governors to allow more flexibility in the timing. Current guidelines require state governors to submit names of Council seat nominees and their complete nomination packages to NMFS by March 15. The proposed rule would soften the deadline, requiring submission of nominees' names by March 15 and allowing until March 31 for submission of the completed nomination packages.

This proposed rule change is needed to accommodate the lengthy and complex procedure for Council nominees to file for and receive official security assurances. The security assurance application procedure requires extensive personal history information to be submitted by computer. Due to timing of the process, software and internet connectivity problems, and availability of the personal information, the security assurance filings can be delayed, resulting in submission of the completed nomination packages after March 15.

Recognizing the difficulty of the process, NMFS has accommodated late submission of nomination packages. NMFS intends to provide states every reasonable opportunity to submit nominations for open Council seats, and, therefore, while submission of the names for nomination must be submitted by March 15, the proposed rule would give states until March 31 to submit the completed nomination package.

NMFS retains the requirement for having completed packages prior to accepting nominations for any seat, and the option not to consider any nominations for at-large seats not completed by March 31. It remains NMFS' expectation that governors will submit, at a minimum, their list of nominees by March 15.

The Secretary must make Council member appointments by June 27 to allow new members to be seated by August 11 and complete the regular nomination cycle. Any later submission of nominees jeopardizes that process.

Notifying governors and commencing the nomination process earlier may help the situation but would not solve the problem of late nomination package submissions. Currently, NMFS contacts governors each December and January to solicit nominations for upcoming obligatory and at-large seats. Some gubernatorial terms begin in January and a change in administration, as well as other year-end priorities can confound the state's Council nomination process.

Restrictions on Lobbying

NMFS proposes to add a new paragraph concerning lobbying to § 600.225, which sets forth the Council Rules of Conduct. There have been recent questions from the Councils and inquiries from the public regarding what is allowed and not allowed in the way of direct or indirect lobbying by Council members and staff. Direct lobbying involves contacts with legislators, their staffs, or other government officials, either in person or through written or oral communication. Indirect or ''grassroots'' lobbying involves contacting others and urging them to support or to advocate for improve appropriations or changes to legislation or policy.

To provide Council members, Council staff and members of the public a better idea of restrictions on lobbying activities, NMFS proposes to add a new § 600.227 Lobbying. Restrictions on lobbying activities that apply to the Regional Fishery Management Councils, as recipients of Federal financial assistance, are encompassed in 31 U.S.C. 1352(a)(1)and (2), 15 CFR 28.100(a), and in applicable cost-principles set forth at 2 CFR part 230. As a condition of receiving such assistance, the Councils agree to abide by these restrictions. The proposed § 600.227 would provide not only references to these lobbying restrictions, but also general guidance with respect to certain proscribed actions.

Financial Disclosure by Council and SSC Members

The amended Magnuson-Stevens Act expands the array of business activities

that must be reported by affected individuals in their financial disclosures. An ''affected individual'' is a person who is nominated by a state Governor or appointed by the Secretary to serve as a voting member of a Council under section 302(b)(2) and (b)(5) of the Magnuson-Stevens Act. Members of an SSC are also considered affected individuals for specific paragraphs of § 600.235. Affected individuals must disclose any financial interests they have in certain activities that may fall under the jurisdiction of the Council. Per the amended Magnuson-Stevens Act, lobbying and advocacy are added to fishery harvesting, processing, and marketing as the types of activities, upon which the individual must report. The proposed rule would implement this change by expanding and updating the definition of financial interests in § 600.235 to include the activities of lobbying and advocacy. It would also remove from the definition of financial interests the exclusion of financial concerns associated with environmental advocacy. For clarity, Financial Interest Form is defined.

Consistent with the Magnuson-Stevens Act, at § 600.235 the proposed rule would require the financial disclosures made by Council members appointed by the Secretary to be posted on the internet and accessible to the public.

Council Member Training

Another new section, § 600.250, addresses a Magnuson-Stevens Act requirement for the Secretary to develop a training course and for newly appointed Council members to attend the training course within one year of appointment. The minimum course content is specified in the Magnuson-Stevens Act and not addressed in this regulation. The course would be made available, not only to new Council members, but also to existing Council members, Council staff, and NMFS staff. The course may also be made available to Council committee and advisory panel members.

Technical Changes

In addition to implementing amendments to the Magnuson-Stevens Act, the proposed rule would make several technical changes and corrections to 50 CFR part 600 subparts A, B, and C. In § 600.105, ''intercouncil boundaries,'' the latitude of the seaward boundary between Virginia and North Carolina would be corrected. In § 600.125, citations to two documents that direct a Council's financial management would be updated. Section 600.10 would be revised to clarify that one full year must have elapsed after the completion of a member's third consecutive term before that person may take a seat on the same Council. The text of an oath of office would be reinserted in § 600.220. This oath was removed during the regulations consolidation in 1996, however it is still in use by the Councils and it requested by them and others, particularly when new members are about to be sworn in. The oath acknowledges and affirms the members' commitment to the conservation and management of living marine resources. Section 600.240 would be clarified by requiring that background checks be acceptable rather than just completed. Several additional minor corrections and clarifications reflecting changes already discussed would be made throughout the subparts.

Classification

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows:

This proposed rule would update operational and administrative procedures of the eight Regional Fishery Management Councils. It consists of varied measures which implement 2007 amendments to the Magnuson-Stevens Act, respond to emerging Council issues, and make minor changes and technical corrections to the Council regulations. The proposed rule includes:

1. Requirements relative to the Council Coordination Committee (CCC) consisting of Council chairs, executive directors, and others, to work on issues of common concern;
2. Requirements relative to the Scientific and Statistical Committee (SSC) in the regulations and requirements for financial interest reporting by the SSC;
3. Update meeting announcement requirements for the Councils, their committees, advisory panels (AP), Fishing Industry Advisory Committees (FIAC), and the CCC, consistent with the Magnuson-Stevens Act;
4. Requirement for Councils to establish a procedure for proposed regulations submitted to the Secretary;
5. Designation of an alternate for the Indian tribal representative of the Pacific Fishery Management Council;
6. Requirements for nominating individuals to the Gulf of Mexico Fishery Management Council;
7. Revisions to the process and deadline for governors to submit Council member nominations to the Secretary;
8. Restrictions on direct or indirect lobbying of legislators by Council members, Council staff, and contractors.
9. Addition of lobbying and advocacy as types of financial interest activities that must be reported by affected individuals;
10. Specifying that SSC members be treated as ''affected individuals'' as regards certain financial interest reporting requirements, consistent with the Magnuson-Stevens Act;
11. Requirement that financial disclosures made by appointed Council members to be posted on the internet, consistent with the Magnuson-Stevens Act; and
12. Requirement that new Council members to attend a training course developed by the Secretary, consistent with the Magnuson-Stevens Act.

Additionally, the proposed rule would make several technical changes and minor corrections to the existing regulations. For example, in the section on inter-council boundaries, the latitude of the seaward boundary between Virginia and North Carolina is corrected; citations to two documents that direct the Councils' financial management are updated; and the text of an oath of office is added to the regulations. Several additional minor corrections have been made throughout the subparts.

As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by OMB under Control Number 0649–0192. Public reporting burden for completing and submitting the Statement of Financial Interests, Form 88–195, is estimated to average 35 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e-mail to *David_Rostker@omb.eop.gov* or fax to (202) 395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 600

Administrative practice and procedure, Confidential business information, Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics.

Dated: March 23, 2009.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 600 as follows:

PART 600—MAGNUSON-STEVENS ACT PROVISIONS

1. The authority citation for part 600 continues to read:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

2. In § 600.10, add definitions for ''Advisory panel (AP)'' and ''Fishing industry advisory committee (FIAC)'' in alphabetical order; and revise the definitions for ''Region'', ''Regional Administrator'', and ''Science and Research Director'' to read as follows:

§ 600.10 Definitions.

* * * * *

Advisory panel (AP) means a standing committee formed and selected by a regional fishery management council, under the authority of Magnuson-Stevens Act section 302(g)(2), to assist it in carrying out its functions. An AP may include individuals who are not members of the council.

* * * * *

Fishing industry advisory committee (FIAC) means an advisory group formed and selected by a regional fishery management council under the authority of the Magnuson-Stevens Act section 302(g)(3)(A). A FIAC is not an ''advisory panel'' as defined under this section.

* * * * *

Region means one of six NMFS Regional Offices responsible for administering the management and development of marine resources in the United States in their respective geographical regions.

Regional Administrator means the Administrator of one of the six NMFS Regions described in Table 1 to § 600.502, or a designee. Formerly known as Regional Director.

* * * * *

Science and Research Director means the Director of one of the six NMFS Fisheries Science Centers described in Table 1 to § 600.502, or a designee, also known as Center Director.

* * * * *

3. In § 600.15:

a. Redesignate paragraphs (a)(9) through (a)(15) as paragraphs (a)(11) through (a)(17), respectively.

b. Redesignate paragraphs (a)(5) through (a)(8) as paragraphs (a)(6) through (a)(9), respectively.

c. Add new paragraphs (a)(5) and (a)(10) to read as follows:

§ 600.15 Other acronyms.

(a) * * *

(5) CCC Council coordination committee

* * * * *

(10) FIAC Fishing industry advisory committee

* * * * *

4. In § 600.105, revise paragraph (b) to read as follows:

§ 600.105 Intercouncil boundaries.

* * * * *

(b) *Mid-Atlantic and South Atlantic Councils.* The boundary begins at the seaward boundary between the States of Virginia and North Carolina (36 33'01.0'' N. lat), and proceeds due east to the point of intersection with the outward boundary of the EEZ as specified in the Magnuson-Stevens Act.

* * * * *

5. In § 600.115, revise paragraph (b) to read as follows:

§ 600.115 Statement of organization, practices, and procedures (SOPP).

* * * * *

(b) Amendments to current SOPPs must be consistent with the guidelines in this section, subpart C of this part, the terms and conditions of the cooperative agreement (the funding agreement between the Council and NOAA that establishes Council funding and mandates specific requirements regarding the use of those funds), the statutory requirements of the Magnuson-Stevens Act, and other applicable law. Upon approval of a Council's SOPP amendment by the Secretary, a notice of availability must be published in the **Federal Register** that includes an internet address from which the amended SOPP may be read and downloaded and a mailing address to which the public may write to request copies.

* * * * *

6. Section 600.117 is added to subpart B to read as follows:

§ 600.117 Council coordination committee (CCC).

(a) The Councils may establish a Council coordination committee (CCC) consisting of the chairs, vice chairs, and executive directors of each of the eight Councils or other Council members or staff, in order to discuss issues of relevance to all Councils.

(b) The CCC is not subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. App. 2). Procedures for announcing and conducting open and closed meetings of the CCC shall be in accordance with § 600.135.

7. In § 600.125, revise paragraph (a) to read as follows:

§ 600.125 Budgeting, funding, and accounting.

(a) Council grant activities are governed by 15 CFR part 14 (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit and Commercial Organizations), 2 CFR part 230 (Cost Principles for Non-Profit Organizations), 15 CFR part 14 (Audit Requirements for Institutions of Higher Education and Other Non-Profit Organizations), and the terms and conditions of the cooperative agreement.

* * * * *

8. Section 600.133 is added to subpart B to read as follows:

§ 600.133 Scientific and Statistical Committee (SSC).

(a) *Establishment of an SSC.* (1) Each Council shall establish, maintain, and appoint the members of an SSC to assist it in the development, collection, evaluation, and peer review of such statistical, biological, economic, social, and other scientific information as is relevant to such Council's development and amendment of any fishery management plan.

(2) Each SSC shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch, preventing overfishing, maximum sustainable yield, and achieving rebuilding targets, and reports on stock status and health, bycatch, habitat status, social and economic impacts of management measures, and sustainability of fishing practices.

(3) Members appointed by the Councils to the SSCs shall be Federal employees, State employees, academicians, or independent experts and shall have strong scientific or technical credentials and experience.

(4) An SSC shall hold its meetings in conjunction with the meetings of the Council, to the extent practicable.

(b) [Reserved]

(c) [Reserved]

9. In § 600.135, paragraphs (a), (b), (c), (d), and (e) are revised to read as follows:

§ 600.135 Meeting procedures.

(a) *Regular meetings.* Public notice of regular meetings of each Council, CCC, SSC, and AP, including the meeting agenda, must be published in the **Federal Register** at least 14 calendar days prior to the meeting date.

Appropriate notice by any means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery) must be given. E-mail notification and website postings alone are not sufficient. The published agenda of a regular meeting may not be modified to include additional matters for Council action without public notice, or such notice must be given at least 14 calendar days prior to the meeting date, unless such modification is necessary to address an emergency under section 305(c) of the Magnuson-Stevens Act, in which case public notice shall be given immediately. Drafts of all regular public meeting notices must be received by NMFS headquarters office at least 23 calendar days before the first day of the regular meeting. Councils must ensure that all public meetings are accessible to persons with disabilities, and that the public can make timely requests for language interpreters or other auxiliary aids at public meetings.

(b) *Emergency meetings.* Drafts of emergency public notices must be transmitted to the NMFS headquarters office; recommended at least 5 working days prior to the first day of the emergency meeting. Although notices of and agendas for emergency meetings are not required to be published in the **Federal Register**, notices of emergency meetings must be promptly announced through any means that will result in wide publicity in the major fishing ports of the region. E-mail notification and website postings alone are not sufficient.

(c) *Closed meetings.* After proper notification by any means that will result in wide publicity in the major fishing ports within the region, having included in the notification the time and place of the meeting and the reason for closing any meeting or portion thereof to the public:

(1) A Council, CCC, SSC, AP, or FIAC must close any meeting, or portion thereof, that concerns information bearing a national security classification.

(2) A Council, CCC, SSC, AP, or FIAC may close any meeting, or portion thereof, that concerns matters or information pertaining to national security, employment matters, or briefings on litigation in which the Council is interested.

(3) A Council, CCC, SSC, AP, or FIAC may close any meeting, or portion thereof, that concerns internal administrative matters other than employment. Examples of other internal administrative matters include candidates for appointment to AP, SSC, FIAC, and other subsidiary bodies and public decorum or medical conditions of members of a Council or its subsidiary bodies. In deciding whether to close a portion of a meeting to discuss internal administrative matters, the CCC, a Council, or subsidiary body should consider not only the privacy interests of individuals whose conduct or qualifications may be discussed, but also the interest of the public in being informed of Council operations and actions.

(d) Without the notice required by paragraph (c) of this section, a Council, CCC, SSC, AP, or FIAC may briefly close a portion of a meeting to discuss employment or other internal administrative matters. The closed portion of a meeting that is closed without notice may not exceed two hours.

(e) Before closing a meeting or portion thereof, the CCC, a Council, or subsidiary body should consult with the NOAA General Counsel Office to ensure that the matters to be discussed fall within the exceptions to the requirement to hold public meetings described in paragraph (c) of this section.

* * * * *

10. Section 600.140 is added to subpart B to read as follows:

§ 600.140 Procedure for proposed regulations.

(a) Each Council must establish a written procedure for proposed regulations consistent with section 303(c) of the Magnuson-Stevens Act. The procedure must describe how the Council deems proposed regulations necessary or appropriate for the purposes of implementing a fishery management plan or a plan amendment, or making modifications to regulations implementing a fishery management plan or plan amendment. In addition, the procedure must describe how the Council submits proposed regulations to the Secretary.

(b) The Councils must include the procedure for proposed regulations in its SOPP, see § 600.115, or other written documentation that is available to the public.

11. Section 600.207 is added to subpart C to read as follows:

§ 600.207 Pacific Fishery Management Council Tribal Indian representation and alternate.

(a) The tribal Indian representative to the Pacific Fishery Management Council may designate an alternate during the period of the representative's term. The designee must be knowledgeable concerning tribal rights, tribal law, and the fishery resources of the geographical area concerned.

(b) New or revised designations of an alternate by the tribal Indian representative must be delivered in writing to the appropriate NMFS Regional Administrator and the Council chair at least 48 hours before the designee may vote on any issue before the Council. In that written document, the tribal Indian representative must indicate how the designee meets the knowledge requirements under paragraph (a) of this section.

12. In § 600.210 revise paragraph (c) to read as follows:

§ 600.210 Terms of Council members.

* * * * *

(c) A member who has completed three consecutive terms will be eligible for appointment to another term one full year after completion of the third consecutive term.

13. In § 600.215, redesignate paragraphs (c), (d), and (e) as paragraphs (d), (e), and (f), respectively; add new paragraph (c); and revise the newly redesignated paragraph (e) to read as follows:

§ 600.215 Council nomination and appointment procedures.

* * * * *

(c) *Nominees to the Gulf of Mexico Fishery Management Council.* (1) The Governors of States submitting nominees to the Secretary for appointment to the Gulf of Mexico Fishery Management Council shall include:

(i) At least one nominee each from the commercial, recreational, and charter fishing sectors, except that an individual who owns or operates a fish farm outside the United States shall not be considered to be a representative of the commercial or recreational sector; and

(ii) At least one other individual who is knowledgeable regarding the conservation and management of fisheries resources in the jurisdiction of the Council.

(2) Notwithstanding the requirements of paragraphs (a) and (b) of this section, if the Secretary determines that the list of names submitted by the Governor does not meet the requirements of paragraph (c)(1) of this section, the Secretary shall:

(i) Publish a notice in the **Federal Register** asking the residents of that State to submit the names and pertinent biographical data of individuals who would meet the requirements of this section that were not met for appointment to the Council; and

(ii) Add the name of any qualified individual submitted by the public who

meets the requirements of this section that were not met to the list of names submitted by the Governor.

(3) The requirements of this paragraph (c) shall expire at the end of fiscal year 2012, meaning through September 30, 2012.

* * * * *

(e) *Nomination deadlines.* Nomination packages (governors' letters and completed nomination kits) should be forwarded by express mail under a single mailing to the address specified by the Assistant Administrator by March 15. For appointments outside the normal cycle, the Secretary will provide a deadline for receipt of nominations to the affected Council and state governors.

(1) *Obligatory seats.* (i) The Governor of the state for which the term of an obligatory seat is expiring should submit the names of at least three qualified individuals to fill that seat by the March 15 deadline. The Secretary will appoint to the Pacific Fishery Management Council a representative of an Indian tribe from a list of no fewer than three individuals submitted by the tribal Indian governments.

(ii) If the Governor or tribal Indian governments fail to provide a nomination letter and at least three complete nomination kits by March 15, the obligatory seat will remain vacant until all required information has been received and processed and the Secretary has made the appointment.

(2) *At-large seats.* (i) If a Governor chooses to submit nominations for an at-large seat, he/she should submit lists that contain at least three qualified nominees for each vacant seat. A nomination letter and a nomination kit for each qualified nominee should be forwarded by express mail under a single mailing to the address specified by the Assistant Administrator by March 15.

(ii) Nomination packages that are not substantially complete by March 31 will be returned to the nominating Governor and will be processed no further. At-large members will be appointed from among the nominations submitted by the governors who complied with the nomination requirements.

* * * * *

14. Section 600.220 is revised to read as follows:

§ 600.220 Oath of office.

As trustees of the nation's fishery resources, all voting members must take an oath specified by the Secretary as follows: ''I, [name of the person taking oath], as a duly appointed member of a Regional Fishery Management Council established under the Magnuson-Stevens Fishery Conservation and Management Act, hereby promise to conserve and manage the living marine resources of the United States of America by carrying out the business of the Council for the greatest overall benefit of the Nation. I recognize my responsibility to serve as a knowledgeable and experienced trustee of the Nation's marine fisheries resources, being careful to balance competing private or regional interests, and always aware and protective of the public interest in those resources. I commit myself to uphold the provisions, standards, and requirements of the Magnuson-Stevens Fishery Conservation and Management Act and other applicable law, and shall conduct myself at all times according to the rules of conduct prescribed by the Secretary of Commerce. This oath is given freely and without mental reservation or purpose of evasion.''

15. In § 600.225 redesignate paragraphs (b)(2) through (b)(8) as paragraphs (b)(3) through (b)(9) respectively; and add a new paragraph (b)(2) to read as follows:

§ 600.225 Rules of conduct.

* * * * *

(b) * * *

(2) Council members, employees, and contractors must comply with the Federal Cost Principles Applicable to Regional Fishery Management Council Grants and Cooperative Agreements, especially with regard to lobbying, and other restrictions with regard to lobbying as specified in § 600.227 of this part.

* * * * *

16. Section 600.227 is added to subpart C to read as follows:

§ 600.227 Lobbying.

(a) Council members, employees and contractors must comply with the requirements of 31 U.S.C. 1352 and Department of Commerce implementing regulations published at 15 CFR 28, ''New Restrictions on Lobbying.'' These provisions generally prohibit the use of Federal funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with the award. Because the Councils receive in excess of $100,000 in Federal funding, the regulations mandate that the Councils must complete Form SF-LLL, ''Disclosure of Lobbying Activities,'' regarding the use of non Federal funds for lobbying. The Form SF-LLL shall be submitted within 30 days following the end of the calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed. The recipient must submit the Forms SF-LLL, including those received from subrecipients, contractors, and subcontractors, to the Grants Officer.

(b) Council members, employees, and contractors must comply with the Federal Cost Principles Applicable to Regional Fishery Management Council Grants and Cooperative Agreements summarized as follows:

(1) Title 2 CFR part 230 - Cost Principles for Nonprofit Organizations (OMB CircularA–122) is applicable to the Federal assistance awards issued to the Councils.

(2) The purpose of the cost principles at 2 CFR part 230 is to define what costs can be paid on Federal awards issued to non-profit organizations. The regulation establishes both general principles and detailed items of costs.

(3) Under 2 CFR part 230, costs for certain lobbying activities are unallowable as charges to Federal awards. These activities would include any attempts to influence:

(i) The introduction of Federal or state legislation;

(ii) The enactment or modification of any pending legislation by preparing, distributing, or using publicity or propaganda, or by urging members of the general public to contribute to or to participate in any demonstration, march, rally, fundraising drive, lobbying campaign, or letter writing or telephone campaign.

(4) Generally, costs associated with providing a technical and factual presentation directly related to the performance of a grant, through hearing testimony, statements, or letters to Congress or a state legislature are allowable if made in response to a documented request.

(5) Costs associated with lobbying to influence state legislation in order to reduce the cost or to avoid material impairment of the organization's authority to perform the grant are also allowable.

17. In § 600.235:

a. In paragraph (a), add paragraph (3) to the definition of ''Affected individual'', remove the definition of ''Financial interest in harvesting, processing, or marketing'', and add definitions for ''Financial Interest Form'' and ''Financial interest in harvesting, processing, lobbying, advocacy, or marketing'' in alphabetical order.

b. Revise paragraph (b).

c. Revise paragraph (c)(2) and add paragraph (c)(4).

d. Revise paragraphs (h) and (i).

The revisions and additions read as follows:

§ 600.235 Financial disclosure.

(a) * * *

Affected individual * * *

(3) A member of an SSC shall be treated as an affected individual for the purposes of paragraphs (b)(1), (b)(5) through (b)(7), and (i) of this section.

* * * * *

Financial Interest Form means NOAA Form 88–195, ''STATEMENT OF FINANCIAL INTERESTS For Use By Voting Members of, and Nominees to, the Regional Fishery Management Councils, and Members of the Scientific and Statistical Committee (SSC)'' or such other form as the Secretary may prescribe.

Financial interest in harvesting, processing, lobbying, advocacy, or marketing (1) includes:

(i) Stock, equity, or other ownership interests in, or employment with, any company, business, fishing vessel, or other entity engaging in any harvesting, processing, lobbying, advocacy, or marketing activity in any fishery under the jurisdiction of the Council concerned;

(ii) Stock, equity, or other ownership interests in, or employment with, any company or other entity that provides equipment or other services essential to harvesting, processing, lobbying, advocacy, or marketing activities in any fishery under the jurisdiction of the Council concerned, such as a chandler or a dock operation;

(iii) Employment with, or service as an officer, director, or trustee of, an association whose members include companies, vessels, or other entities engaged in any harvesting, processing, lobbying, advocacy, or marketing activity in any fishery under the jurisdiction of the Council concerned; and

(iv) Employment with an entity providing consulting, legal, or representational services to any entity engaging in, or providing equipment or services essential to harvesting, processing, lobbying, advocacy, or marketing activities in any fishery under the jurisdiction of the Council concerned, or to any association whose members include entities engaged in the activities described in paragraphs (1)(i) and (ii) of this definition;

(2) Does not include stock, equity, or other ownership interests in, or employment with, an entity engaging in scientific fisheries research in any fishery under the jurisdiction of the Council concerned, unless it is covered under paragraph (1) of this definition. A financial interest in such entities is covered by 18 U.S.C. 208, the Federal conflict-of-interest statute.

(b) *Reporting.* (1) The Magnuson-Stevens Act requires the disclosure by each affected individual of any financial interest in harvesting, processing, lobbying, advocacy, or marketing activity, and of any such financial interest of the affected individual's spouse, minor child, partner, or any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee. The information required to be reported must be disclosed on the Financial Interest Form (as defined in paragraph (a) of this section), or such other form as the Secretary may prescribe.

(2) The Financial Interest Form must be filed by each nominee for Secretarial appointment to the Council with the Assistant Administrator by April 15 or, if nominated after March 15, one month after nomination by the Governor. A seated voting member appointed by the Secretary must file a Financial Interest Form with the Executive Director of the appropriate Council within 45 days of taking office; must file an update of his or her statement with the Executive Director of the appropriate Council within 30 days of the time any such financial interest is acquired or substantially changed by the affected individual or the affected individual's spouse, minor child, partner, or any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee; and must update his or her form annually and file that update with the Executive Director of the appropriate Council by February 1 of each year.

(3) The Executive Director must, in a timely manner, provide copies of and updates to the Financial Interest Forms of appointed Council members to the NMFS Regional Administrator, the Regional Attorney who advises the Council, the Department of Commerce Assistant General Counsel for Administration, and the NMFS Office of Sustainable Fisheries. These completed Financial Interest Forms shall be kept on file in the office of the NMFS Regional Administrator and at the Council offices, and shall be made available for public inspection at such offices during normal office hours. In addition, the forms shall be made available at each Council meeting or hearing and shall be posted for download from the internet on the Council's website.

(4) Councils must retain the Financial Interest Form for a Council member for at least 5 years after the expiration of that individual's last term.

(5) An individual being considered for appointment to an SSC must file the Financial Interest Form with the Regional Administrator for the geographic area concerned within 45 days prior to appointment. A member of the SSC must file an update of his or her statement with the Regional Administrator for the geographic area concerned within 30 days of the time any such financial interest is acquired or substantially changed by the SSC member or the SSC member's spouse, minor child, partner, or any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee; and must update his or her form annually and file that update with the Regional Administrator by February 1 of each year.

(6) An individual who serves as an SSC member to more than one Council shall file Financial Interest Forms with each Regional Administrator for the geographic areas concerned.

(7) The Regional Administrator shall maintain on file the Financial Interest Forms of all SSC members for at least five years after the expiration of that individual's term on the SSC. Such Forms are not subject to sections 302(j)(5)(B) and (C) of the Magnuson-Stevens Act.

(c) * * *

(2) As used in this section, a Council decision will be considered to have a ''significant and predictable effect on a financial interest'' if there is a close causal link between the decision and an expected and substantially disproportionate benefit to the financial interest in harvesting, processing, lobbying, advocacy, or marketing of any affected individual or the affected individual's spouse, minor child, partner, or any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee, relative to the financial interests of other participants in the same gear type or sector of the fishery. The relative financial interests of the affected individual and other participants will be determined with reference to the most recent fishing year for which information is available. However, for fisheries in which IFQs are assigned, the percentage of IFQs assigned to the affected individual will be dispositive.

* * * * *

(4) A member of an SSC is not subject to the restrictions on voting under this section.

* * * * *

(h) The provisions of 18 U.S.C. 208 regarding conflicts of interest do not

apply to an affected individual who is a voting member of a Council appointed by the Secretary, as described under section 302(j)(1)(A)(ii) of the Magnuson-Stevens Act, and who is in compliance with the requirements of this section for filing a financial disclosure report. The provisions of 18 U.S.C. 208 do not apply to a member of an SSC, unless that individual is an officer or employee of the United States or is otherwise covered by the requirements of 18 U.S.C. 208.

(i) It is unlawful for an affected individual to knowingly and willfully fail to disclose, or to falsely disclose, any financial interest as required by this section, or to knowingly vote on a Council decision in violation of this section. In addition to the penalties applicable under § 600.735, a violation of this provision may result in removal of the affected individual from Council or SSC membership.

18. In § 600.240, revise paragraph (a) to read as follows:

§ 600.240 Security assurances.

(a) DOC Office of Security will issue security assurances to Council nominees and members following completion of acceptable background checks. Security assurances will be valid for 5 years from the date of issuance. A security assurance will not entitle the member to access classified data. In instances in which Council members may need to discuss, at closed meetings, materials classified for national security purposes, the agency or individual (e.g., Department of State, U.S. Coast Guard) providing such classified information will be responsible for ensuring that Council members and other attendees have the appropriate security clearances.

* * * * *

19. Section 600.250 is added to subpart C to read as follows:

§ 600.250 Council member training.

(a) The Secretary shall provide a training course covering a variety of topics relevant to matters before the Councils and shall make the training course available to all Council members and staff and staff from NMFS regional offices and science centers. To the extent resources allow, the Secretary will make the training available to Council committee and advisory panel members.

(b) Council members appointed after January 12, 2007, shall, within one year of appointment, complete the training course developed by the Secretary. Any Council member who completed such a training course within 24 months of January 12, 2007, is considered to have met the training requirement of this section.

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Notices

Federal Register

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Funding Opportunity Title: Commodity Partnerships for Small Agricultural Risk Management Education Sessions (Commodity Partnerships Small Sessions Program)

Announcement Type: Announcement of availability of funds and request for application for competitive cooperative partnership agreements.

Catalog of Federal Domestic Assistance Number (CFDA): 10.459.

DATES: Hard copy applications are due 5 p.m. EST, May 11, 2009. Electronic applications submitted through Grants.gov are due at 11:59 p.m. EST, May 11, 2009.

SUMMARY: The Federal Crop Insurance Corporation (FCIC), operating through the Risk Management Agency (RMA), announces the availability of approximately $900,000 (subject to availability of funds) for Commodity Partnerships for Small Agricultural Risk Management Education Sessions (the Commodity Partnerships Small Sessions Program). The purpose of this cooperative partnership agreement program is to deliver training and information in the management of production, marketing, and financial risk to U.S. agricultural producers. The program gives priority to educating producers of crops currently not insured under Federal crop insurance, specialty crops, and underserved commodities, including livestock and forage. A maximum of 90 cooperative partnership agreements will be funded, with no more than nine in each of the ten designated RMA Regions. The maximum award for any cooperative partnership agreement will be $10,000. Awardees must demonstrate non-financial benefits from a cooperative partnership agreement and must agree to the substantial involvement of RMA in the project. Funding availability for this program may be announced at approximately the same time as funding availability for similar but separate programs—CFDA No. 10.455 (Community Outreach and Assistance Partnerships), and CFDA No. 10.458 (Crop Insurance Education in Targeted States). Prospective applicants should carefully examine and compare the notices for each program.

The collections of information in this announcement have been approved by OMB under control number 0563–0067, and is currently at OMB for renewal.

This announcement consists of eight sections:

Section I—Funding Opportunity Description
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D. Project Goal
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Full Text of Announcement

I. Funding Opportunity Description

A. Legislative Authority

The Commodity Partnerships Small Sessions Program is authorized under section 522(d)(3)(F) of the Federal Crop Insurance Act (Act) (7 U.S.C. 1522(d)(3)(F)).

B. Background

RMA promotes and regulates sound risk management solutions to improve the economic stability of American agriculture. On behalf of FCIC, RMA does this by offering Federal crop insurance products through a network of private-sector partners, overseeing the creation of new risk management products, seeking enhancements in existing products, ensuring the integrity of crop insurance programs, offering outreach programs aimed at equal access and participation of underserved communities, and providing risk management education and information. One of RMA's strategic goals is to ensure that its customers are well informed as to the risk management solutions available. This educational goal is supported by section 522(d)(3)(F) of the Act, which authorizes FCIC funding for risk management training and informational efforts for agricultural producers through the formation of partnerships with public and private organizations. With respect to such partnerships, priority is to be given to reaching producers of Priority Commodities, as defined below.

C. Definition of Priority Commodities

For purposes of this program, Priority Commodities are defined as:

• *Agricultural Commodities Covered by (7 U.S.C. 7333).* Commodities in this group are commercial crops that are not covered by catastrophic risk protection crop insurance, are used for food or fiber (except livestock), and specifically include, but are not limited to, floricultural, ornamental nursery, Christmas trees, turf grass sod, aquaculture (including ornamental fish), and industrial crops.

• *Specialty Crops.* Commodities in this group may or may not be covered under a Federal crop insurance plan and include, but are not limited to, fruits, vegetables, tree nuts, syrups, honey, roots, herbs, and highly specialized varieties of traditional crops.

• *Underserved Commodities.* This group includes: (a) Commodities, including livestock and forage, that are covered by a Federal crop insurance plan but for which participation in an area is below the national average; and (b) commodities, including livestock and forage, with inadequate crop insurance coverage.

A project is considered as giving priority to Priority Commodities if 75 percent of the educational activities of the project are directed to producers of any of the three classes of commodities listed above or any combination of the three classes.

D. Project Goal

The goal of this program is to ensure that ''* * * producers will be better able to use financial management, crop insurance, marketing contracts, and other existing and emerging risk management tools.''

E. Purpose

The purpose of the Commodity Partnership Small Session Program is to provide U.S. farmers and ranchers with training and informational opportunities to be able to understand:

• The kinds of risks addressed by existing and emerging risk management tools;

• The features and appropriate use of existing and emerging risk management tools; and

• How to make sound risk management decisions.

In addition, for 2009, the FCIC Board of Directors and the FCIC Manager are seeking projects that also include the Special Emphasis Topics listed below which highlight the educational priorities with each of the ten RMA Regional Offices:

• *Billings, Montana Regional Office (MT, ND, SD, and WY)*—Pasture, Rangeland, Forage, Livestock Gross Margin, Specialty Crops, and Underserved Commodities

• *Davis, CA Regional Office (AZ, CA, HI, NV, and UT)*—Actual Revenue History program for cherries in California, Hawaii Tropical Tree and Fruit Pilot Insurance programs (coffee, papaya and banana), AGR–Lite in Hawaii, Drought mitigation and lack of irrigation water, other applicable pilot state/county crop insurance pilot programs, and commodities uninsured by the crop insurance program

• *Jackson, MS Regional Office (AR, KY, LA, MS, and TN)*—Nursery insurance tools (all states), AGR–Lite Insurance tools (TN) and Nursery Price Endorsement Crop Insurance (all states)

• *Oklahoma City, OK Regional Office (NM, OK, and TX)*—Native American issues and, Limited English Proficiency.

• *Raleigh, NC Regional Office (CT, DE, MA, MD, ME, NC, NH, NJ, NY, PA, RI, VA, VT, and WV).*

• *Connecticut*—LGM Dairy Cattle, Northern Potatoes, and Nursery Insurance Tools.

• *Delaware*—LGM Dairy Cattle, Southern Potatoes, and Nursery Insurance Tools.

• *Maine*—LGM Dairy Cattle, Northern Potatoes, and Nursery Insurance Tools.

• *Maryland*—LGM Dairy Cattle, Southern Potatoes, and Nursery Insurance Tools.

• *Massachusetts*—LGM Dairy Cattle, Northern Potatoes, and Nursery Insurance Tools.

• *New Hampshire*—LGM Dairy Cattle and Nursery Insurance Tools.

• *New Jersey*—LGM Dairy Cattle, Southern Potatoes, and Nursery Insurance Tools.

• *New York*—Apiculture Vegetation Index, LGM Dairy Cattle, Pasture Rangeland Forage Vegetation Index, Northern Potatoes, and Nursery Insurance Tools.

• *North Carolina*—Apiculture Vegetation Index, Pasture Rangeland Forage Vegetation Index, LRP for Feeder Cattle, Fed Cattle, Lamb, and Swine, Southern Potatoes, and Nursery Insurance Tools.

• *Pennsylvania*—Apiculture Rainfall Index and Vegetation Index, LGM Dairy Cattle, Pasture Rangeland Forage Rainfall Index and Vegetation Index, Northern Potatoes, and Nursery Insurance Tools.

• *Rhode Island*—LGM Dairy Cattle, Northern Potatoes, and Nursery Insurance Tools.

• *Virginia*—Apiculture Vegetation Index, Pasture Rangeland Forage Vegetation Index, LRP for Feeder Cattle, Fed Cattle, Lamb, and Swine, Southern Potatoes, and Nursery Insurance Tools.

• *Vermont*—LGM Dairy Cattle, Northern Potatoes, and Nursery Insurance Tools

• *West Virginia*—LGM Dairy Cattle, and Nursery Insurance Tools.

• *Spokane, WA Regional Office (AK, ID, OR, and WA)*—Yield and revenue crop insurance products (Actual Production History for Cherries, Crop Revenue Coverage, Income Protection, and Revenue Assurance) for small grains producers in Idaho, Oregon, and Washington; Potato and Sugar Beet insurance tools in Pacific Northwest growers.

• *Springfield, IL Regional Office (IL, IN, MI, and OH)*—Processing Pumpkin Pilot Program, AGR–Lite, and ARH Cherries Pilot Program.

• *St. Paul, MN Regional Office (IA, MN, and WI)*—AGR–Lite, understanding how Revenue Policies function and their relationship to marketing decisions.

• *Topeka, KS Regional Office (CO, KS, MO, and NE)*—Pasture, Rangeland and Forage in states and counties with the program.

• *Valdosta, GA Regional Office (AL, FL, GA, SC, and Puerto Rico)*—Pasture, Rangeland, and Forage/Apiculture.

II. Award Information

A. Type of Award

Cooperative Partnership Agreements, which require the substantial involvement of RMA.

B. Funding Availability

Approximately $900,000 (subject to availability of funds) is available in fiscal year 2009 to fund up to 90 cooperative partnership agreements. The maximum award for any agreement will be $10,000. It is anticipated that a maximum of nine agreements will be funded in each of the ten designated RMA Regions.

In the event that all funds available for this program are not obligated after the maximum number of agreements are awarded or if additional funds become available, these funds may, at the discretion of the Manager of FCIC, be used to award additional applications that score highly by the technical review panel or allocated pro-rata to awardees for use in broadening the size or scope of awarded projects, if agreed to by the awardee. In the event that the Manager of FCIC determines that available RMA resources cannot support the administrative and substantial involvement requirements of all agreements recommended for funding, the Manager may elect to fund fewer agreements than the available funding might otherwise allow. It is expected

that the awards will be made approximately 120 days after the application deadline. All awards will be made and agreements finalized no later than September 30, 2009.

C. Location and Target Audience

RMA Regional Offices and the States serviced within each Region are listed below. Staff from the respective RMA Regional Offices will provide substantial involvement for projects conducted within the Region.

Billings, MT Regional Office: (MT, ND, SD, and WY).

Davis, CA Regional Office: (AZ, CA, HI, NV, and UT).

Jackson, MS Regional Office: (AR, KY, LA, MS, and TN).

Oklahoma City, OK Regional Office: (NM, OK, and TX).

Raleigh, NC Regional Office: (CT, DE, MA, MD, ME, NC, NH, NJ, NY, PA, RI, VA, VT, and WV).

Spokane, WA Regional Office: (AK, ID, OR, and WA).

Springfield, IL Regional Office: (IL, IN, MI, and OH).

St. Paul, MN Regional Office: (IA, MN, and WI).

Topeka, KS Regional Office: (CO, KS, MO, and NE).

Valdosta, GA Regional Office: (AL, FL, GA, SC, and Puerto Rico).

Applicants must clearly designate the RMA Region where educational activities will be conducted in their application narrative in block 12 of the SF–424 form. Applications without this designation will be rejected. Priority will be given to producers of Priority Commodities. Applicants proposing to conduct educational activities in more than one RMA Region must submit a separate application for each RMA Region. Single applications proposing to conduct educational activities in more than one RMA Region will be rejected.

D. Maximum Award

Any application that requests Federal funding of more than $10,000 for a project will be rejected. RMA also reserves the right to fund successful applications at an amount less than requested if it is judged that the application can be implemented at a lower funding level.

E. Project Period

Projects will be funded for a period of up to one year from the project starting date.

F. Description of Agreement Award

Awardee Tasks

In conducting activities to achieve the purpose and goal of this program in a designated RMA Region, the awardee will be responsible for performing the following tasks:

- Develop and conduct a promotional program. This program will include activities using media, newsletters, publications, or other appropriate informational dissemination techniques that are designed to: (a) Raise awareness for risk management; (b) inform producers of the availability of risk management tools; and (c) inform producers and agribusiness leaders in the designated RMA Region of training and informational opportunities.
- Deliver risk management training and informational opportunities to agricultural producers and agribusiness professionals in the designated RMA Region. This will include organizing and delivering educational activities using the instructional materials that have been assembled to meet the local needs of agricultural producers. Activities should be directed primarily to agricultural producers, but may include those agribusiness professionals that have frequent opportunities to advise producers on risk management tools and decisions.
- Document all educational activities conducted under the cooperative partnership agreement and the results of such activities, including criteria and indicators used to evaluate the success of the program. The awardee will also be required to provide information to an RMA-selected contractor to evaluate all educational activities and advise RMA as to the effectiveness of activities.

G. RMA Activities

FCIC, working through RMA, will be substantially involved during the performance of the funded project through RMA's ten Regional Offices. Potential types of substantial involvement may include, but are not limited to the following activities.

- Collaborate with the awardee in assembling, reviewing, and approving risk management materials for producers in the designated RMA Region.
- Collaborate with the awardee in reviewing and approving a promotional program for raising awareness for risk management and for informing producers of training and informational opportunities in the RMA Region.
- Collaborate with the awardee on the delivery of education to producers and agribusiness leaders in the RMA Region. This will include: (a) Reviewing and approving in advance all producer and agribusiness leader educational activities; (b) advising the project leader on technical issues related to crop insurance education and information; and (c) assisting the project leader in informing crop insurance professionals about educational activity plans and scheduled meetings.
- Conduct an evaluation of the performance of the awardee in meeting the deliverables of the project.
- Assist in the selection of subcontractors and project staff.

Applications that do not contain substantial involvement by RMA will be rejected.

H. Other Tasks

In addition to the specific, required tasks listed above, the applicant may propose additional tasks that would contribute directly to the purpose of this program. For any proposed additional task, the applicant must identify the objective of the task, the specific subtasks required to meet the objective, specific time lines for performing the subtasks, and the specific responsibilities of partners. The applicant must also identify specific ways in which RMA would have substantial involvement in the proposed project task.

III. Eligibility Information

A. Eligible Applicants

Eligible applicants include State departments of agriculture, universities, non-profit agricultural organizations, and other public or private organizations with the capacity to lead a local program of risk management education for farmers and ranchers in an RMA Region. Individuals are not eligible applicants. Although an applicant may be eligible to compete for an award based on its status as an eligible entity, other factors may exclude an applicant from receiving Federal assistance under this program governed by Federal law and regulations (*e.g.* debarment and suspension; a determination of non-performance on a prior contract, cooperative agreement, grant or cooperative partnership; a determination of a violation of applicable ethical standards; a determination of being considered ''high risk''). Applications from ineligible or excluded persons will be rejected in their entirety.

B. Cost Sharing or Matching

Although RMA prefers cost sharing by the applicant, this program has neither a cost sharing nor a matching requirement.

C. Other—Non-Financial Benefits

To be eligible, applicants must also be able to demonstrate that they will receive a non-financial benefit as a result of a cooperative partnership agreement. Non-financial benefits must

accrue to the applicant and must include more than the ability to provide employment income to the applicant or for the applicant's employees or the community. The applicant must demonstrate that performance under the cooperative partnership agreement will further the specific mission of the applicant (such as providing research or activities necessary for graduate or other students to complete their educational program). Applications that do not demonstrate a non-financial benefit will be rejected.

IV. Application and Submission Information

A. Contact To Request Application Package

Program application materials for the Commodity Partnerships Program under this announcement may be downloaded from *http://www.rma.usda.gov/aboutrma/agreements*. Applicants may also request application materials from: Lydia M. Astorga, USDA–RMA–RME, phone: (202) 260–4728, fax: (202) 690–3605, e-mail: *RMA.Risk-Ed@rma.usda.gov*.

B. Content and Form of Application Submission

A complete and valid application must be submitted in one package at the time of initial submission, which must include the following:

1. An original and two copies of the completed and signed application.
2. A completed and signed OMB Standard Form 424, ''Application for Federal Assistance.''
3. A completed and signed OMB Standard Form 424–A, ''Budget Information—Non-construction Programs.'' Federal funding requested (the total of direct and indirect costs) must not exceed $10,000.00.
4. A completed and signed OMB Standard Form 424–B, ''Assurances, Non-constructive Programs.''
5. An electronic copy (Microsoft Word format preferred) on a compact disk (CD) of the completed:

a. ''Written Narrative''—no more than 5 single-sided pages which will provide reviewers with sufficient information to effectively evaluate the merits of the application according to the evaluation criteria listed in this notice. Although a Statement of Work, which is the third evaluation criterion, is to be completed in detail in RMA 2 Form, applicants may wish to highlight certain unique features of the Statement of Work for the benefit of the evaluation panel. If your narrative exceeds the page limit, only the first 5 pages will be reviewed.

- No smaller than 12 point font size.
- Use an easily readable font face (*e.g.*, Arial, Geneva, Helvetica, Times Roman).
- 8.5 by 11 inch paper.
- One-inch margins on each page.
- Printed on only one side of paper.
- Held together only by rubber bands or metal clips; not bound or stapled in any other way.

b. ''Budget Narrative,'' describing how the categorical costs listed on SF 424–A are derived. The budget narrative should provide enough detail for reviewers to easily understand how costs were determined and how they relate to the goals and objectives of the project.

c. ''Statement of Non-financial Benefits.'' (Refer to Section III, Eligibility Information, C. Other—Non-financial Benefits, above).

d.''Statement of Work,'' RME 2 Form, which identifies tasks and subtasks in detail, expected completion dates and deliverables, and RMA's substantial involvement role for the proposed project.

6. A completed and signed OMB Standard Form LLL, ''Disclosure of Lobbying Activities.''
7. A completed and signed AD–1047, ''Certification Regarding Debarment, Suspension and Other Responsibility Matters—Primary Covered Transactions.''
8. A completed and signed AD–1049, ''Certification Regarding Drug-Free Workplace.''

Applications that do not include items 1–8 above will be considered incomplete, will not receive further consideration, and will be rejected.

C. Funding Restrictions

Cooperative partnership agreement funds may not be used to:

a. Plan, repair, rehabilitate, acquire, or construct a building or facility including a processing facility;

b. Purchase, rent, or install fixed equipment;

c. Repair or maintain privately owned vehicles;

d. Pay for the preparation of the cooperative partnership agreement application;

e. Fund political activities;

f. Purchase alcohol, food, beverage or entertainment;

g. Lend money to support farming or agricultural business operation or expansion;

h. Pay costs incurred prior to receiving a partnership agreement; or

i. Fund any activities prohibited in 7 CFR Parts 3015 and 3019, as applicable.

D. Limitation on Use of Project Funds for Salaries and Benefits

Total costs for salary and benefits allowed for projects under this announcement will be limited to not more than 70 percent reimbursement of the funds awarded under the cooperative partnership agreement as indicated in Section III. Eligibility Information, C. Other—Non-financial Benefits. One goal of the Commodity Partnerships Small Sessions Program is to maximize the use of the limited funding available for risk management education for producers of Priority Commodities. In order to accomplish this goal, RMA needs to ensure that the maximum amount of funds practicable is used for directly providing the educational opportunities. Limiting the amount of funding for salaries and benefits will allow the limited amount of funding to reach the maximum number of farmers and ranchers.

E. Indirect Cost Rates

a. Indirect costs allowed for projects submitted under this announcement will be limited to ten (10) percent of the total direct cost of the cooperative partnership agreement. Therefore, when preparing budgets, applicants should limit their requests for recovery of indirect costs to the lesser of their institution's official negotiated indirect cost rate or 10 percent of the total direct costs.

b. RMA reserves the right to negotiate final budgets with successful applicants.

c. Applicants may be required to provide a copy of their indirect cost rate negotiated with their cognizant agency.

F. Other Submission Requirements

Mailed Submissions: Applications submitted through express, overnight mail or another delivery service will be considered as meeting the announced deadline if they are received in the mailroom at the address stated below for express, overnight mail or another delivery service on or before the deadline. Applicants are cautioned that express, overnight mail or other delivery services do not always deliver as agreed. Applicants should take this into account because failure of such delivery services will not extend the deadline. Mailed applications will be considered as meeting the announced deadline if they are received on or before the deadline in the mailroom at the address stated below for mailed applications. Applicants using the U.S. Postal Service (USPS) should allow for the extra time for delivery due to the additional security measures that mail delivered to government offices in the Washington,

DC area requires. USPS mail sent to Washington, DC headquarters is sanitized offsite, which may result in delays, loss, and physical damage to enclosures.

Address when using private delivery services or when hand delivering: Attention: Risk Management Education Program, USDA/RMA/RME, Room 6709, South Building, 1400 Independence Avenue, SW., Washington, DC 20250.

Address when using U.S. Postal Services: Attention: Risk Management Education Program, USDA/RMA/RME/ Stop 0808, Room 6709, South Building, 1400 Independence Ave, SW., Washington, DC 20250–0808.

Applicants are responsible for ensuring that RMA receives a complete application package by the closing date and time. Regardless of the delivery method you choose, please do so sufficiently in advance of the due date to ensure your application package is received on or before the deadline. E-mailed and faxed applications will not be accepted. Application packages received after the deadline will not receive further consideration and will be rejected.

G. Electronic Submissions

Applications transmitted electronically via Grants.gov will be accepted prior to the application date or time deadline. The application package can be accessed via Grants.gov, go to *http://www.grants.gov*, click on ''Find Grant Opportunities,'' click on ''Search Grant Opportunities,'' and enter the CFDA number (beginning of the RFA) to search by CFDA number. From the search results, select the item that correlates to the title of this RFA. If you do not have electronic access to the RFA or have trouble downloading material and you would like a hardcopy, you may contact Lydia M. Astorga, USDA–RMA–RME, phone: (202) 260–4728, fax: (202) 690–3605, e-mail: *RMA.Risk-Ed@rma.usda.gov*.

If assistance is needed to access the application package via Grants.gov (*e.g.*, downloading or navigating PureEdge forms, using PureEdge with a Macintosh computer using Adobe), refer to resources available on the Grants.gov Web site first (*http://www.grants.gov/*). Grants.gov assistance is also available as follows:

- *Grants.gov Customer Support*

Toll Free: 1–800–518–4726.

Business Hours: M–F 7 a.m.–9 p.m. Eastern Standard Time.

E-mail: support@grants.gov.

Applicants who submit their applications via the Grants.gov Web site are not required to submit any hard copy documents to RMA.

When using Grants.gov to apply, RMA strongly recommends that you submit the online application at least two weeks prior to the application due date in case there are problems with the Grants.gov Web site and you want to submit your application via a mail delivery service.

Electronic applications submitted through Grants.gov are due at 11:59 p.m. ET on the application deadline date.

H. Acknowledgement of Applications

Receipt of timely applications will be acknowledged by e-mail, whenever possible. Therefore, applicants are encouraged to provide e-mail addresses in their applications. If an e-mail address is not indicated on an application, timely receipt will be acknowledged by letter. There will be no notification of incomplete, unqualified or unfunded applications until after the awards have been made. When received by RMA, applications will be assigned an identification number. This number will be communicated to applicants in the acknowledgement of receipt of applications. An application's identification number should be referenced in all correspondence regarding the application. If the applicant does not receive an acknowledgement within 15 days of the submission deadline, the applicant should notify RMA's point of contact indicated in Section VII, Agency Contact.

V. Application Review Information

A. Criteria

Applications submitted under the Commodity Partnerships Small Sessions Program will be evaluated within each RMA Region according to the following criteria:

Project Impacts—Maximum 20 Points

The applicant must demonstrate that the project benefits to farmers and ranchers warrant the funding requested. Applicants will be scored according to the extent they can: (a) Identify the specific actions producers will likely be able to take as a result of the educational activities described in the Statement of Work; (b) identify the specific measures for evaluating results that will be employed in the project; (c) reasonably estimate the total number of producers reached through the various methods and educational activities described in the Statement of Work; and (d) justify such estimates with clear specifics. Reviewers' scoring will be based on the scope and reasonableness of the applicant's clear descriptions of specific expected actions producers will accomplish, and well-designed methods for measuring the project's results and effectiveness. Applicants using direct contact methods with producers will be scored higher.

Statement of Work—Maximum 20 Points

The applicant must produce a clear and specific Statement of Work for the project. For each of the tasks contained in the Description of Agreement Award (refer to Section II Award Information), the applicant must identify and describe specific subtasks, responsible entities, expected completion dates, RMA substantial involvement, and deliverables that will further the purpose of this program. Applicants will be scored higher to the extent that the Statement of Work is specific, measurable, reasonable, has specific deadlines for the completion of subtasks, relates directly to the required activities and the program purpose described in this announcement, which is to provide producers with training and informational opportunities so that the producers will be better able to use financial management, crop insurance, marketing contracts, and other existing and emerging risk management tools. Applicants are required to submit this Statement of Work on Form RME–2 Form. All narratives should give estimates of how many producers will be reached through this project. Estimates for non-producers can also be made but they should be separate from the estimate of producers.

Project Management—Maximum 15 Points

The applicant must demonstrate an ability to implement sound and effective project management practices. Higher scores will be awarded to applicants that can demonstrate organizational skills, leadership, and experience in delivering services or programs that assist agricultural producers in the respective RMA Region. The project manager must demonstrate that he/she has the capability to accomplish the project goal and purpose stated in this announcement by (a) having a previous working relationship with the farm community in the designated RMA Region of the application, including being able to recruit approximately the number of producers to be reached in the application and/or (b) having established the capacity to partner with and gain the support of grower organizations, agribusiness professionals, and agribusiness leaders locally to aid in carrying out a program of education and information, including

being able to recruit approximately the number of producers to be reached in this application. Applicants are encouraged to designate an alternate Project Leader in the event the Project Leader is unable to finish the project. Applicants that will employ, or have access to, personnel who have experience in directing local educational programs that benefit agricultural producers in the respective RMA Region will receive higher rankings.

Budget Appropriateness and Efficiency—Maximum 15 Points

Applicants must provide a detailed budget summary that clearly explains and justifies costs associated with the project. Applicants will receive higher scores to the extent that they can demonstrate a fair and reasonable use of funds appropriate for the project and a budget that contains the estimated cost of reaching each individual producer. The applicant must provide information factors such as:

- The allowability and necessity for individual cost categories;
- The reasonableness of amounts estimated for necessary costs;
- The basis used for allocating indirect or overhead costs;
- The appropriateness of allocating particular overhead costs to the proposed project as direct costs; and
- The percent of time devoted to the project for all key project personnel identified in the application. Salaries of project personnel should be requested in proportion to the percent of time that they would devote to the project and cannot exceed 70 percent of the total project budget. Applicants must list all current public or private support to which personnel identified in the application have committed portions of their time, whether or not salary support for persons involved is included in the budget. An application that duplicates or overlaps substantially with an application already reviewed and funded (or to be funded) by another organization or agency will not be funded under this program. The projects proposed for funding should be included in the pending section. Only items or services that are necessary for the successful completion of the project will be funded as permitted under the Act.

Priority Commodity—Maximum 10 Points

The applicant can submit projects that are not related to Priority Commodities. However, priority will be given to projects relating to Priority Commodities and the degree in which such projects relate to the Priority Commodities. Projects that relate solely to Priority Commodities will be eligible for the most points.

Past Performance—Maximum 10 Points

If the applicant has been an awardee of other Federal or other government grants, cooperative agreements, or contracts in the past three years, the applicant must provide information relating to their past performance in reporting on outputs and outcomes under past or current Federal assistance agreements or contracts. The applicant must also detail that they have consistently complied with financial and program reporting and auditing requirements. RMA will review past performance reports during the review panel process. RMA reserves the right to add up to 10 points or subtract up to 10 points from applications due to past performance. RMA has established 10 evaluation standards from which your past performance scores is based upon. The 10 evaluation standards are demonstrated by: (1) Submitting all required documents (educational and promotional) to the RO for review prior to dissemination, (2) developing a training plan or accurate set of instructional materials, (3) delivering the materials to his/her intended audience as specified in the statement of work, (4) being able to draw at least 50 percent of the audience estimated in the application, (5) developing a promotional plan or accurate set of promotional materials and properly promoting the program to his/her intended audience, (6) using the RMA logo when deemed appropriate, (7) participating in quarterly conference calls when asked, (8) notifying RO employees of when crop insurance and risk management education workshops and seminars are being held in their region in timely manner, (9) submitting complete quarterly reports by established deadlines, and (10) achieving the goals and objectives stated upfront in the statement of work. Applicants with very good past performance will receive a score from 6–10 points. Very good past performance is designated by an agreement holder that meets the 10 standards stated above from 70 percent to 100 percent of the time. Applicants with acceptable past performance will receive a score from 1–5 points when the 10 standards are met 40 percent to 69 percent of the time. Applicants with unacceptable past performance will receive a score of zero to minus 10 points when an applicant meets the 10 standards less than 39 percent of the time. Applicants without relevant past performance information will receive a neutral score of the mean number of points of all applicants with past performance. These past performance points will be applied only to applications that the review panel scored above the minimum score. Applications receiving less than the minimum score required to be eligible for potential funding will not receive past performance points.

Projected Audience Description—Maximum 5 Points

The applicant must clearly identify and describe the targeted audience for the project. Applicants will receive higher scores to the extent that they can reasonably and clearly describe their target audience and why the audience would choose to participate in the project. The applicant must describe why the proposed audience wants the information the project will deliver and how they will benefit from it.

B. Review and Selection Process

Applications will be evaluated using a two-part process. First, each application will be screened by RMA personnel to ensure that it meets the requirements in this announcement. Applications that do not meet the requirements of this announcement or that are incomplete will not receive further consideration during the next process. Applications that meet announcement requirements will be sorted into the RMA Region in which the applicant proposes to conduct the project and will be presented to a review panel for consideration.

Second, the review panel will meet to consider and discuss the merits of each application. The panel will consist of not less than three independent reviewers. Reviewers will be drawn from USDA, other Federal agencies, and others representing public and private organizations, as needed. After considering the merits of all applications within an RMA Region, panel members will score each application according to the criteria and point values listed above. The panel will then rank each application against others within the RMA Region according to the scores received. A lottery will be used to resolve any instances of a tie score that might have a bearing on funding recommendations. If such a lottery is required, the names of all tied applicants will be entered into a drawing. The first tied applicant drawn will have priority over other tied applicants for funding consideration.

The review panel will report the results of the evaluation to the Manager of FCIC. The panel's report will include

the recommended applicants to receive cooperative partnership agreements for each RMA Region. Funding will not be provided for an application receiving a score less than 45. Funding will not be provided for an application that is highly similar to a higher-scoring application in the same RMA Region. Highly similar is one that proposes to reach the same producers likely to be reached by another applicant that scored higher by the panel and the same general educational material is proposed to be delivered.

An organization, or group of organizations in partnership, may apply for funding under other FCIC or RMA programs, in addition to the program described in this announcement. However, if the Manager of FCIC determines that an application recommended for funding is sufficiently similar to a project that has been funded or has been recommended to be funded under another RMA or FCIC program, then the Manager may elect not to fund that application in whole or in part. The Manager of FCIC will make the final determination on those applications that will be awarded funding.

VI. Award Administration Information

A. Award Notices

Following approval by the awarding official of RMA of the applications to be selected for funding, project leaders whose applications have been selected for funding will be notified. Within the limit of funds available for such a purpose, the awarding official of RMA shall enter into cooperative partnership agreements with those selected applicants. The agreements provide the amount of Federal funds for use in the project period, the terms, and conditions of the award, and the time period for the project. The effective date of the agreement shall be on the date the agreement is executed by both parties and it shall remain in effect for up to one year or through September 30, 2010, whichever is later.

After a partnership agreement has been signed, RMA will extend to awardees, in writing, the authority to draw down funds for the purpose of conducting the activities listed in the agreement. All funds provided to the applicant by FCIC must be expended solely for the purpose for which the funds are obligated in accordance with the approved agreement and budget, the regulations, the terms and conditions of the award, and the applicability of Federal cost principles. No commitment of Federal assistance beyond the project period is made or implied for any award resulting from this notice.

Notification of denial of funding will be sent to applicants after final funding decisions have been made and the awardees announced publicly. Reasons for denial of funding can include, but are not limited to, incomplete applications, applications with evaluation scores that are lower that other applications in an RMA Region, or applications that are highly similar to a higher-scoring application in the same RMA Region. Highly similar is an application that proposes to reach the same producers likely to be reached by another applicant that scored higher by the panel and the same general educational material is proposed to be delivered.

B. Administrative and National Policy Requirements

1. Requirement To Use Program Logo

Applicants awarded cooperative partnership agreements will be required to use a program logo and design provided by RMA for all instructional and promotional materials, when deemed appropriate.

2. Requirement To Provide Project Information to an RMA-Selected Representative

Applicants awarded cooperative partnership agreements may be required to assist RMA in evaluating the effectiveness of its educational programs by providing documentation of educational activities and related information to any representative selected by RMA for program evaluation purposes.

3. Private Crop Insurance Organizations and Potential Conflicts of Interest

Private organizations that are involved in the sale of Federal crop insurance, or that have financial ties to such organizations, are eligible to apply for funding under this announcement. However, such entities will not be allowed to receive funding to conduct activities that would otherwise be required under a Standard Reinsurance Agreement or any other agreement in effect between FCIC and the entity. Also, such entities will not be allowed to receive funding to conduct activities that could be perceived by producers as promoting one company's services or products over another's. If applying for funding, such organizations are encouraged to be sensitive to potential conflicts of interest and to describe in their application the specific actions they will take to avoid actual and perceived conflicts of interest.

4. Access to Panel Review Information

Upon written request from the applicant, scores from the evaluation panel, not including the identity of reviewers, will be sent to the applicant after the review and awards process has been completed.

5. Confidential Aspects of Applications and Awards

The names of applicants, the names of individuals identified in the applications, the content of applications, and the panel evaluations of applications will all be kept confidential, except to those involved in the review process, to the extent permitted by law. In addition, the identities of review panel members will remain confidential throughout the entire review process and will not be released to applicants. At the end of the fiscal year, names of panel members will be made available. However, panelists will not be identified with the review of any particular application.

When an application results in a partnership agreement, that agreement becomes a part of the official record of RMA transactions, available to the public upon specific request. Information that the Secretary of Agriculture determines to be of a confidential, privileged, or proprietary nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to be considered confidential, privileged, or proprietary should be clearly marked within an application, including the basis for such designation. The original copy of an application that does not result in an award will be retained by RMA for a period of one year. Other copies will be destroyed. Copies of applications not receiving awards will be released only with the express written consent of the applicant or to the extent required by law. An application may be withdrawn at any time prior to award.

6. Audit Requirements

Applicants awarded cooperative partnership agreements are subject to audit.

7. Prohibitions and Requirements With Regard to Lobbying

Section 1352 of Public Law 101–121, enacted on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on awardees of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian Tribes and Tribal organizations. Current and prospective awardees, and any subcontractors, are

prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement, or loan. In addition, for each award action in excess of $100,000 ($150,000 for loans) the law requires awardees and any subcontractors: (1) To certify that they have neither used nor will use any appropriated funds for payment of lobbyists; (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom awardees of their subcontractors will pay with profits or other non-appropriated funds on or after December 22, 1989; and (3) to file quarterly up-dates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for non-compliance. A copy of the certification and disclosure forms must be submitted with the application, are available at the address, and telephone number listed in Section VII. Agency Contact.

8. Applicable OMB Circulars

All partnership agreements funded as a result of this notice will be subject to the requirements contained in all applicable OMB circulars.

9. Requirement To Assure Compliance With Federal Civil Rights Laws

Awardees of all cooperative partnership agreements funded as a result of this notice are required to know and abide by Federal civil rights laws and to assure USDA and RMA that the awardee is in compliance with and will continue to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), 7 CFR part 15, and USDA regulations promulgated thereunder, 7 CFR 1901.202. RMA requires awardees to submit an Assurance Agreement (Civil Rights), assuring RMA of this compliance prior to the beginning of the project period.

10. Requirement To Participate in a Post Award Teleconference

RMA requires that project leaders participate in a post award teleconference, if conducted to become fully aware of agreement requirements and for delineating the roles of RMA personnel and the procedures that will be followed in administering the agreement and will afford an opportunity for the orderly transition of agreement duties and obligations if different personnel are to assume post-award responsibility.

11. Requirement To Submit Educational Materials to the National AgRisk Education Library

RMA requires that project leaders upload digital copies of all risk management educational materials developed because of the project to the National AgRisk Education Library *(http://www.agrisk.umn.edu/)* for posting, if electronically reporting. RMA will be clearly identified as having provided funding for the materials. Projects leaders not reporting electronically will not be required to post educational materials onto the National AgRisk Education Library, but are highly encouraged to do so.

12. Requirement To Submit Proposed Results to the National AgRisk Education Library

RMA requires that project leaders submit results of the project to the National AgRisk Education Library *(http://www.agrisk.umn.edu/)* for posting if electronically reporting. Projects leaders not reporting electronically will not be required to post results onto the National AgRisk Education Library, but are highly encouraged to do so.

13. Requirement To Submit a Project Plan of Operation in the Event of a Human Pandemic Outbreak

RMA requires that project leaders submit a project plan of operation in case of a human pandemic event. The plan should address the concept of continuing operations as they relate to the project. This should include the roles, responsibilities, and contact information for the project team and individuals serving as back-ups in case of a pandemic outbreak.

C. Reporting Requirements

Awardees will be required to submit quarterly progress reports, quarterly financial reports (OMB Standard Form 269), and quarterly Activity Logs (Form RMA–300) throughout the project period, as well as a final program and financial report not later than 90 days after the end of the project period.

Awardees will be required to submit prior to the award:

- A completed and signed Assurance Agreement (Civil Rights).
- A completed and signed Faith-Based Survey on EEO.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Applicants and other interested parties are encouraged to contact: Lydia M. Astorga, USDA–RMA–RME, phone: 202–260–4728, fax: 202–690–3605, e-mail: *RMA.Risk-Ed@rma.usda.gov*. You may also obtain information regarding this announcement from the RMA Web site at: *http://www.rma.usda.gov/aboutrma/agreements*.

VIII. Other Information

A. Dun and Bradstreet Data Universal Numbering System (DUNS)

A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of over 70 million businesses worldwide. The Office of Management and Budget published a notice of final policy issuance in the **Federal Register** June 27, 2003 (68 FR 38402) that requires a DUNS number in every application (*i.e.*, hard copy and electronic) for a grant or cooperative agreement on or after October 1, 2003. Therefore, potential applicants should verify that they have a DUNS number or take the steps needed to obtain one. For information about how to obtain a DUNS number, go to *http://www.grants.gov*. Please note that the registration may take up to 14 business days to complete.

B. Required Registration With the Central Contract Registry (CCR) for Submission of Proposals

The Central Contract Registry (CCR) is a database that serves as the primary Government repository for contractor information required for the conduct of business with the Government. This database will also be used as a central location for maintaining organizational information for organizations seeking and receiving grants from the Government. Such organizations must register in the CCR prior to the submission of applications. A DUNS number is needed for CCR registration. For information about how to register in the CCR, visit ''Get Started'' at the Web site, *http://www.grants.gov*. Allow a minimum of 5 business days to complete the CCR registration.

C. Related Programs

Funding availability for this program may be announced at approximately the same time as funding availability for similar but separate programs—CFDA No. 10.455 (Community Outreach and Assistance Partnerships), and CFDA No. 10.458 (Crop Insurance Education in Targeted States). These programs have some similarities, but also key differences. The differences stem from important features of each program's authorizing legislation and different RMA objectives. Prospective applicants should carefully examine and compare the notices for each program.

Signed in Washington, DC on March 23, 2009.

William J. Murphy,

Acting Manager, Federal Crop Insurance Corporation.

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Funding Opportunity Title: Crop Insurance Education in Targeted States (Targeted States Program)

Announcement Type: Announcement of availability of funds and request for application for competitive cooperative agreements.

Catalog of Federal Domestic Assistance Number (CFDA): 10.458.

DATES: Hard copy applications are due 5 p.m. EST, May 11, 2009. Electronic applications submitted through Grants.gov are due 11:59 p.m. EST, *May 11, 2009.*

SUMMARY: The Federal Crop Insurance Corporation (FCIC), operating through the Risk Management Agency (RMA), announces the availability of approximately $4.5 million (subject to availability of funds) to fund cooperative agreements under the Crop Insurance Education in Targeted States program (the Targeted States Program). The purpose of this cooperative agreement program is to deliver crop insurance education and information to U.S. agricultural producers in certain States that have been designated as historically underserved with respect to crop insurance. The states, collectively referred to as Targeted States, are Connecticut, Delaware, Hawaii, Maine, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, and Wyoming. A maximum of 16 cooperative agreements will be funded, one in each of the 16 Targeted States. Awardees must agree to the substantial involvement of RMA in the project. Funding availability for this program may be announced at approximately the same time as funding availability for similar but separate programs—CFDA No. 10.455 (Community Outreach and Assistance Partnerships), CFDA No. 10.457 (Commodity Partnerships for Risk Management Education), and CFDA No. 10.459 (Commodity Partnerships for Small Agricultural Risk Management Education Sessions). Prospective applicants should carefully examine and compare the notices for each program.

The collections of information in this announcement have been approved by OMB under control number 0563–0067, and is currently at OMB for renewal.

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I. Funding Opportunity Description

A. Legislative Authority

The Targeted States Program is authorized under section 524(a)(2) of the Federal Crop Insurance Act (Act).

B. Background

RMA promotes and regulates sound risk management solutions to improve the economic stability of American agriculture. On behalf of FCIC, RMA does this by offering Federal crop insurance products through a network of private-sector partners, overseeing the creation of new risk management products, seeking enhancements in existing products, ensuring the integrity of crop insurance programs, offering outreach programs aimed at equal access and participation of underserved communities, and providing risk management education and information. One of RMA's strategic goals is to ensure that its customers are well informed of risk management solutions available. This educational goal is supported by section 524(a)(2) of the Act. This section authorizes funding for the establishment of crop insurance education and information programs in States that have historically been underserved by the Federal crop insurance program. In accordance with the Act, the sixteen States designated as ''underserved'' are Connecticut, Delaware, Hawaii, Maine, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, and Wyoming (collectively referred to as ''Targeted States''). Hawaii was added this fiscal year when Congress authorized the 2008 Farm Bill.

C. Project Goal

The goal of the Targeted States Program is to ensure that farmers and ranchers in the Targeted States are sufficiently informed so as to take full advantage of existing and emerging crop insurance products. In carrying out the programs established under the Food, Conservation, And Energy Act of 2008, the Secretary of Agriculture has placed special emphasis on risk management strategies, education, and outreach specifically targeted at—

(A) Beginning farmers or ranchers;

(B) legal immigrant farmers or ranchers who are attempting to become established producers in the United States;

(C) socially disadvantaged farmers or ranchers;

(D) farmers or ranchers who—

(i) Are preparing to retire; and

(ii) are using transition strategies to help new farmers or ranchers get started; and

(E) new or established farmers or ranchers who are converting production and marketing systems to pursue new markets.

D. Purpose

The purpose of the Targeted States Program is to provide farmers and ranchers in Targeted States with education and information to be able to understand:

- The kinds of risk addressed by crop insurance;
- The features of existing and emerging crop insurance products;
- The use of crop insurance in the management of risk;
- How the use of crop insurance can affect other risk management decisions, such as the use of marketing and financial tools;
- How to make informed decisions on crop insurance prior to the sales closing date deadline; and
- Recordkeeping requirements for crop insurance.

In addition, for 2009, the FCIC Board of Directors and the FCIC Manager are seeking projects that also include the Special Emphasis Topics listed below which highlight the educational priorities within each of the Targeted States:

Massachusetts—LGM Dairy Cattle, Northern Potatoes, and Nursery Crop Insurance Tools.

West Virginia—LGM Dairy Cattle, and Nursery Crop Insurance Tools.

Pennsylvania—Apiculture Rainfall Index and Vegetation Index, LGM Dairy Cattle, Pasture Rangeland Forage Rainfall Index and Vegetation Index, Northern Potatoes, and Nursery Crop Insurance Tools.

New York—Apiculture Vegetation Index, LGM Dairy Cattle, Pasture Rangeland Forage Vegetation Index, Northern Potatoes, and Nursery Crop Insurance Tools.

Connecticut—LGM Dairy Cattle, Northern Potatoes, and Nursery Crop Insurance Tools.

Delaware—LGM Dairy Cattle, Southern Potatoes, and Nursery Crop Insurance Tools.

Maine—LGM Dairy Cattle, Northern Potatoes, and Nursery Crop Insurance Tools.

Maryland—LGM Dairy Cattle, Southern Potatoes, and Nursery Crop Insurance Tools.

New Hampshire—LGM Dairy Cattle, and Nursery Crop Insurance Tools.

New Jersey—LGM Dairy Cattle, Southern Potatoes, and Nursery Crop Insurance Tools.

Rhode Island—LGM Dairy Cattle, Northern Potatoes, and Nursery Crop Insurance Tools.

Vermont—LGM Dairy Cattle, Northern Potatoes, and Nursery Crop Insurance Tools.

Wyoming—Pasture, Rangeland, and Forage, Livestock Gross Margin, Specialty Crops, and Underserved Commodities.

Nevada—Crop Insurance in general.

Utah—Crop Insurance in general.

Hawaii—Macadamia Nut and Trees, Hawaii Tropical Fruit and Trees, Nursery Crop Insurance Tools.

II. Award Information

A. Type of Award

Cooperative Agreements, which require the substantial involvement of RMA.

B. Funding Availability

Approximately $4,500,000 (subject to availability of funds) is available in fiscal year 2009 to fund up to 16 cooperative agreements, a maximum of one agreement for each of the Targeted States. The maximum funding amount anticipated for each Targeted State's agreement is as follows. Applicants should apply for funding for that Targeted State where the applicant intends to deliver the educational activities.

Connecticut	$235,000
Delaware	263,000
Hawaii	233,000
Maine	243,000
Maryland	324,000
Massachusetts	228,000
Nevada	235,000
New Hampshire	212,000
New Jersey	259,000
New York	479,000
Pennsylvania	562,000
Rhode Island	204,000
Utah	284,000
Vermont	242,000
West Virginia	230,000
Wyoming	267,000
Total	4,500,000

Funding amounts were determined by first allocating an equal amount of $200,000 to each Targeted State. Remaining funds were allocated on a pro rata basis according to each Targeted State's share of 2007 agricultural cash receipts relative to the total for all Targeted States. Both allocations were totaled for each Targeted State and rounded to the nearest $1,000. In the event that additional funds become available under this program or in the event that no application for a given Targeted State is recommended for funding by the evaluation panel, these additional funds may, at the discretion of the Manager of FCIC, be allocated pro-rata to State awardees for use in broadening the size or scope of awarded projects within the Targeted State, if agreed to by the awardee.

In the event that the Manager of FCIC determines that available RMA resources cannot support the administrative and substantial involvement requirements of all agreements recommended for funding, the Manager may elect to fund fewer agreements than the available funding might otherwise allow. It is expected that the awards will be made approximately 120 days after the application deadline. All awards will be made and agreements finalized no later than September 30, 2009.

C. Location and Target Audience

Targeted States serviced by RMA Regional Offices are listed below. Staff from the respective RMA Regional Offices will provide substantial involvement for Targeted States projects conducted within the respective Regions.

Billings, MT Regional Office: (WY).

Davis, CA Regional Office: (HI, NV and UT).

Raleigh, NC Regional Office: (CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VT and WV).

Applicants must clearly designate the Targeted State where crop insurance educational activities for the project will be delivered in their application in block 12 of the SF–424 form, Application for Federal Assistance. Applications without this designation will be rejected. Applicants may apply to deliver education to producers in more than one Targeted State, but a separate application must be submitted for each Targeted State. Single applications proposing to conduct educational activities in more than one Targeted State will be rejected.

D. Maximum Award

Any application that requests Federal funding of more than the amount listed above for a project in a given Targeted State will be rejected.

E. Project Period

Projects will be funded for a period of up to one year from the project starting date.

F. Description of Agreement Award

Awardee Tasks

In conducting activities to achieve the purpose and goal of this program in a designated Targeted State, the awardee

will be responsible for performing the following tasks:

• Develop and conduct a promotional program. This program will include activities using media, newsletters, publications, or other appropriate informational dissemination techniques that are designed to: (a) Raise awareness for crop insurance; (b) inform producers of the availability of crop insurance; (c) inform producers of the crop insurance sales closing dates prior to the deadline; and (d) inform producers and agribusiness leaders in the designated Targeted State of training and informational opportunities.

• Deliver crop insurance training and informational opportunities to agricultural producers and agribusiness professionals in the designated Targeted State in a timely manner prior to crop insurance sales closing dates in order for producers to make informed decisions prior to the crop insurance sales closing dates deadline. This will include organizing and delivering educational activities using instructional materials that have been assembled to meet the local needs of agricultural producers. Activities should be directed primarily to agricultural producers, but may include those agribusiness professionals that have frequent opportunities to advise producers on crop insurance tools and decisions.

• Document all educational activities conducted under the cooperative agreement and the results of such activities, including criteria and indicators used to evaluate the success of the program. The awardee may also be required to provide information to an RMA-selected contractor to evaluate all educational activities and advise RMA as to the effectiveness of activities.

G. RMA Activities

FCIC, working through RMA, will be substantially involved during the performance of the funded project through three of RMA's ten Regional Offices. Potential types of substantial involvement may include, but are not limited to the following activities.

• Collaborate with the awardee in assembling, reviewing, and approving risk management materials for producers in the designated RMA Region.

• Collaborate with the awardee in reviewing and approving a promotional program for raising awareness for risk management and for informing producers of training and informational opportunities in the RMA Region.

• Collaborate with the awardee on the delivery of education to producers and agribusiness leaders in the RMA Region. This will include: (a) Reviewing and approving in advance all producer and agribusiness leader educational activities; (b) advising the project leader on technical issues related to crop insurance education and information; and (c) assisting the project leader in informing crop insurance professionals about educational activity plans and scheduled meetings.

• Conduct an evaluation of the performance of the awardee in meeting the deliverables of the project.

• Assist in the selection of subcontractors and project staff.

Applications that do not contain substantial involvement by RMA will be rejected.

H. Other Tasks

In addition to the specific, required tasks listed above, the applicant may propose additional tasks that would contribute directly to the purpose of this program. For any proposed additional task, the applicant must identify the objective of the task, the specific subtasks required to meet the objective, specific time lines for performing the subtasks, and the specific responsibilities of partners. The applicant must also identify specific ways in which RMA would have substantial involvement in the proposed project task.

III. Eligibility Information

A. Eligible Applicants

Eligible applicants include State departments of agriculture, universities, non-profit agricultural organizations, and other public or private organizations with the capacity to lead a local program of crop insurance education for farmers and ranchers within a Targeted State. Individuals are eligible applicants. Although an applicant may be eligible to compete for an award based on its status as an eligible entity, other factors may exclude an applicant from receiving Federal assistance under this program governed by Federal law and regulations (*e.g.*, debarment and suspension; a determination of non-performance on a prior contract, cooperative agreement, grant or partnership; a determination of a violation of applicable ethical standards; a determination of being considered ''high risk''). Applications from ineligible or excluded persons will be rejected in their entirety.

B. Cost Sharing or Matching

Although RMA prefers cost sharing by the applicant, this program has neither a cost sharing nor a matching requirement.

IV. Application and Submission Information

A. Contact To Request Application Package

Program application materials for the Targeted States Program under this announcement may be downloaded from *http://www.rma.usda.gov/aboutrma/agreements*. Applicants may also request application materials from: Lydia M. Astorga, USDA–RMA–RME, phone: (202) 260–4728, fax: (202) 690–3605, e-mail: *RMA.Risk-Ed@rma.usda.gov*.

B. Content and Form of Application Submission

A complete and valid application must be submitted in one package at the time of initial submission, which must include the following:

1. An original and two copies of the completed and signed application.

2. A completed and signed OMB Standard Form 424, ''Application for Federal Assistance.''

3. A completed and signed OMB Standard Form 424–A, ''Budget Information—Non-construction Programs.''

4. A completed and signed OMB Standard Form 424–B, ''Assurances, Non-constructive Programs.''

5. An electronic copy (Microsoft Word format preferred) on a compact disk (CD) of the completed:

a. Risk Management Education Project Narrative (RME–1 Form). Complete all required parts.

b. ''Written Narrative''—no more than 10 single-sided pages which will provide reviewers with sufficient information to effectively evaluate the merits of the application according to the evaluation criteria listed in this notice. Although a Statement of Work, which is the third evaluation criterion, is to be completed in detail on RME–2 Form, applicants may wish to highlight certain unique features of the Statement of Work for the benefit of the evaluation panel. If your narrative exceeds the page limit, only the first 10 pages will be reviewed.

• No smaller than 12 point font size.

• Use an easily readable font face (*e.g.*, Arial, Geneva, Helvetica, Times Roman).

• 8.5 by 11 inch paper.

• One-inch margins on each page.

• Printed on only one side of paper.

• Held together only by rubber bands or metal clips; not bound or stapled in any other way.

c. ''Budget Narrative,'' describing how the categorical costs listed on SF 424–A are derived. The budget narrative should provide enough detail for

reviewers to easily understand how costs were determined and how they relate to the goals and objectives of the project.

d. ''Partnering Plan'' include how each partner will aid in carrying out the project goal providing specific tasks. Letters of commitment from individuals and/or groups, dated at least 60 days prior to the application date, and should indicate the specific tasks they have agreed to do with the applicant.

e. ''Statement of Work,'' RME–2 Form, which identifies tasks and subtasks in detail, expected completion dates and deliverables, and RMA's substantial involvement role for the proposed project.

6. A completed and signed OMB Standard Form LLL, ''Disclosure of Lobbying Activities.''

7. A completed and signed AD–1047, ''Certification Regarding Debarment, Suspension and Other Responsibility Matters—Primary Covered Transactions.''

8. A completed and signed AD–1049, ''Certification Regarding Drug-Free Workplace.'' Applications that do not include items 1–8 above will be considered incomplete, will not receive further consideration, and will be rejected. The RME–1 Form, the RME–2 Form, Written Narrative, Budget Narrative, and Partnering Plan must be provided in electronic copy (Microsoft Word format preferred) on a compact disk (CD).

C. Funding Restrictions

Cooperative agreement funds may not be used to:

a. Plan, repair, rehabilitate, acquire, or construct a building or facility including a processing facility;

b. purchase, rent, or install fixed equipment;

c. repair or maintain privately owned vehicles;

d. pay for the preparation of the cooperative agreement application;

e. fund political activities;

f. purchase alcohol, food, beverage, or entertainment;

g. lend money to support farming or agricultural business operation or expansion;

h. pay costs incurred prior to receiving a partnership agreement; or

i. fund any activities prohibited in 7 CFR Parts 3015 and 3019, as applicable.

D. Limitation on Use of Project Funds for Salaries and Benefits

Total costs for salary and benefits allowed for projects under this announcement will be limited to not more than 70 percent reimbursement of the funds awarded under the cooperative agreement. One goal of the Targeted States Program is to maximize the use of the limited funding available for crop insurance education for Targeted States. In order to accomplish this goal, RMA needs to ensure that the maximum amount of funds practicable is used for directly providing the educational opportunities. Limiting the amount of funding for salaries and benefits will allow the limited amount of funding to reach the maximum number of farmers and ranchers.

E. Indirect Cost Rates

a. Indirect costs allowed for projects submitted under this announcement will be limited to ten (10) percent of the total direct cost of the cooperative agreement. Therefore, when preparing budgets, applicants should limit their requests for recovery of indirect costs to the lesser of their institution's official negotiated indirect cost rate or 10 percent of the total direct costs.

b. RMA reserves the right to negotiate final budgets with successful applicants.

c. Applicants may be asked to provide a copy of their indirect cost rate negotiated with their cognizant agency.

F. Other Submission Requirements

Mailed Submissions: Applications submitted through express, overnight mail or another delivery service will be considered as meeting the announced deadline if they are received in the mailroom at the address stated below for express, overnight mail or another delivery service on or before the deadline. Applicants are cautioned that express, overnight mail or other delivery services do not always deliver as agreed. Applicants should take this into account because failure of such delivery services will not extend the deadline. Mailed applications will be considered as meeting the announced deadline if they are received on or before the deadline in the mailroom at the address stated below for mailed applications. Applicants using the U.S. Postal Service (USPS) should allow for the extra time for delivery due to the additional security measures that mail delivered to government offices in the Washington, DC area requires. USPS mail sent to Washington, DC headquarters is sanitized offsite, which may result in delays, loss, and physical damage to enclosures.

Address when using private delivery services or when hand delivering: Attention: Risk Management Education Program:

USDA/RMA/RME, Room 6709, South Building, 1400 Independence Avenue, SW., Washington, DC 20250.

Address when using U.S. Postal Services:

Attention: Risk Management Education Program, USDA/RMA/RME/Stop 0808, Room 6709, South Building, 1400 Independence Ave, SW., Washington, DC 20250–0808.

Applicants are responsible for ensuring that RMA receives a complete application package by the closing date and time. Regardless of the delivery method you choose, please do so sufficiently in advance of the due date to ensure your application package is received on or before the deadline. E-mailed and faxed applications will not be accepted. Application packages received after the deadline will not receive further consideration and will be rejected.

G. Electronic Submissions

Applications transmitted electronically via Grants.gov will be accepted prior to the application date or time deadline. The application package can be accessed via Grants.gov, go to *http://www.grants.gov*, click on ''Find Grant Opportunities,'' click on ''Search Grant Opportunities,'' and enter the CFDA number (found at the beginning of the RFA) to search by CFDA number. From the search results, select the item that correlates to the title of this RFA. If you do not have electronic access to the RFA or have trouble downloading material and you would like a hardcopy, you may contact Lydia M. Astorga, USDA–RMA–RME, phone: (202) 260–4728, fax: (202) 690–3605, e-mail: *RMA.Risk-Ed@rma.usda.gov*.

If assistance is needed to access the application package via Grants.gov (*e.g.*, downloading or navigating PureEdge forms, using PureEdge with a Macintosh computer, using Adobe), refer to resources available on the Grants.gov Web site first (*http://www.grants.gov/*). Grants.gov assistance is also available as follows:

- Grants.gov Customer Support.

Toll Free: 1–800–518–4726.

Business Hours: M–F 7 a.m.–9 p.m. Eastern Standard Time.

E-mail: support@grants.gov.

Applicants who submit their applications via the Grants.gov Web site are not required to submit any hard copy documents to RMA.

When using Grants.gov to apply, RMA strongly recommends that you submit the online application at least two weeks prior to the application due date in case there are problems with the Grants.gov Web site and you want to submit your application via a mail delivery service.

Electronic applications submitted through Grants.gov are due at 11:59 p.m. EST on the application deadline date.

H. Acknowledgement of Applications

Receipt of applications will be acknowledged by e-mail, whenever possible. Therefore, applicants are encouraged to provide e-mail addresses in their applications. If an e-mail address is not indicated on an application, receipt will be acknowledged by letter. There will be no notification of incomplete, unqualified or unfunded applications until the awards have been made. When received by RMA, applications will be assigned an identification number. This number will be communicated to applicants in the acknowledgement of receipt of applications. An application's identification number should be referenced in all correspondence regarding the application. If the applicant does not receive an acknowledgement within 15 days of the submission deadline, the applicant should notify RMA's point of contact indicated in Section VII. Agency Contact.

V. Application Review Information

A. Criteria

Applications submitted under the Targeted States program will be evaluated within each Targeted State according to the following criteria:

Project Impacts—Maximum 30 Points

The applicant must demonstrate that the project benefits to farmers and ranchers warrant the funding requested. Applicants will be scored according to the extent they can: (a) Identify the specific actions producers will likely be able to take as a result of the educational activities described in the Statement of Work; (b) identify the specific measures for evaluating results that will be employed in the project; (c) reasonably estimate the total number of producers reached through the various methods and educational activities described in the Statement of Work; and (d) justify such estimates with clear specifics. Reviewers' scoring will be based on the scope and reasonableness of the applicant's clear descriptions of specific, expected actions producers will accomplish, and well-designed methods for measuring the project's results and effectiveness. Applicants using direct contact methods with producers will be scored higher.

Statement of Work—Maximum 20 Points

The applicant must produce a clear and specific Statement of Work for the project. For each of the tasks contained in the Description of Agreement Award (refer to Section II Award Information), the applicant must identify and describe specific subtasks, responsible entities, expected completion dates, RMA substantial involvement, and deliverables that will further the purpose of this program. Applicants will obtain a higher score to the extent that the Statement of Work is specific, measurable, reasonable, has specific deadlines for the completion of subtasks, relates directly to the required activities and the program purpose described in this announcement. Applicants are required to submit this Statement of Work on RME–2 Form. All narratives should give estimates of how many producers will be reached through this project. Estimates for non-producers can also be made but they should be separate from the estimates of producers.

Partnering—Maximum 15 Points

The applicant must demonstrate experience and capacity to partner with and gain the support of grower organizations, agribusiness professionals, and agricultural leaders to carry out a local program of education and information in a designated Targeted State. The applicant is required to establish a written partnering plan that includes how each partner will aid in carrying out the project goal and purpose stated in this announcement and letters of commitment dated no more than 60 days prior to submission of application stating that the partner has agreed to do this work. The applicant must ensure this plan includes a list of all partners working on the project, their titles, and how they will be contributing to the deliverables listed in the agreement. The partnering plan will not count towards the maximum length of the application narrative. Applicants will receive higher scores to the extent that they can document and demonstrate in the written partnering plan: (a) That partnership commitments are in place for the express purpose of delivering the program in this announcement; (b) that a broad group of farmers and ranchers will be reached within the Targeted State; (c) that partners are contributing to the project and involved in recruiting producers to attend the training; (d) that a substantial effort has been made to partner with organizations that can meet the needs of producers; and (e) statements from each partner regarding the number of producers that partner is committed to recruit for the project that would support the estimates specified under the Project Impacts criterion.

Project Management—Maximum 15 Points

The applicant must demonstrate an ability to implement sound and effective project management practices. Higher scores will be awarded to applicants that can demonstrate organizational skills, leadership, and experience in delivering services or programs that assist agricultural producers in the respective Targeted State. The project manager must demonstrate that he/she has the capability to accomplish the project goal and purpose stated in this announcement by (a) having a previous working relationship with the farm community in the designated Targeted State of the application, including being able to recruit approximately the number of producers to be reached in the application and/or (b) having established the capacity to partner with and gain the support of grower organizations, agribusiness professionals, and agribusiness leaders locally to aid in carrying out a program of education and information, including being able to recruit approximately the number of producers to be reached in this application. Applicants are encouraged to designate an alternate Project Leader in the event the Project Leader is unable to finish the project. Applicants that will employ, or have access to, personnel who have experience in directing local educational programs that benefit agricultural producers in the respective Targeted State will receive higher rankings.

Budget Appropriateness and Efficiency—Maximum 15 Points

Applicants must provide a detailed budget summary that clearly explains and justifies costs associated with the project. Applicants will receive higher scores to the extent that they can demonstrate a fair and reasonable use of funds appropriate for the project and a budget that contains the estimated cost of reaching each individual producer. The applicant must provide information factors such as:

- The allowability and necessity for individual cost categories;
- The reasonableness of amounts estimated for necessary costs;
- The basis used for allocating indirect or overhead costs;
- The appropriateness of allocating particular overhead costs to the proposed project as direct costs; and
- The percent of time devoted to the project for all key project personnel identified in the application. Salaries of project personnel should be requested in proportion to the percent of time that

they would devote to the project and cannot exceed 70 percent of the total project budget. Applicants must list all current public or private support to which personnel identified in the application have committed portions of their time, whether or not salary support for persons involved is included in the budget. Only items or services that are necessary for the successful completion of the project will be funded as permitted under the Act. An application that duplicates or overlaps substantially with an application already reviewed and funded (or to be funded) by another organization or agency will not be funded under this program. The projects proposed for funding should be included in the pending section.

Targeted Producers—Maximum 10 Points

Applicants will obtain a higher score to the extent that the project places special emphasis on risk management strategies, education, and outreach specifically targeted at:

- Beginning farmers or ranchers;
- Legal immigrant farmers or ranchers who are attempting to become established producers in the United States;
- Socially disadvantaged farmers or ranchers;
- Farmers or ranchers who—
  - Are preparing to retire; and
  - Are using transition strategies to help new farmers or ranchers get started; and
- New or established farmers or ranchers who are converting production and marketing systems to pursue new markets.

Past Performance—Maximum 10 Points

If the applicant has been an awardee of other Federal or other government grants, cooperative agreements, or contracts in the past three years, the applicant must provide information relating to their past performance in reporting on outputs and outcomes under past or current Federal assistance agreements or contracts. The applicant must also detail that they have consistently complied with financial and program reporting and auditing requirements. RMA will review past performance reports during the review panel process. RMA reserves the right to add up to10 points or subtract up to 10 points from applications due to past performance. RMA has established 10 evaluation standards from which your past performance scores is based upon. The 10 evaluation standards are demonstrated by: (1) Submitting all required documents (educational and promotional) to the RO for review prior to dissemination, (2) developing a training plan or accurate set of instructional materials, (3) delivering the materials to his/her intended audience as specified in the statement of work, (4) being able to draw at least 50 percent of the audience estimated in the application, (5) developing a promotional plan or accurate set of promotional materials and properly promoting the program to his/her intended audience, (6) using the RMA logo when deemed appropriate, (7) participating in quarterly conference calls when asked, (8) notifying RO employees of when crop insurance and risk management education workshops and seminars are being held in their region in timely manner, (9) submitting complete quarterly reports by established deadlines, and (10) achieving the goals and objectives stated upfront in the statement of work. Applicants with very good past performance will receive a score from 6–10 points. Very good past performance is designated by an agreement holder that meets the 10 standards stated above from 70 percent to 100 percent of the time. Applicants with acceptable past performance will receive a score from 1–5 points when the 10 standards are met 40 percent to 69 percent of the time. Applicants with unacceptable past performance will receive a score of zero to minus 10 points when an applicant meets the 10 standards less than 39 percent of the time. Applicants without relevant past performance information will receive a neutral score of the mean number of points of all applicants with past performance. These past performance points will be applied only to applications that the review panel scored above the minimum score. Applications receiving less than the minimum score required to be eligible for potential funding will not receive past performance points.

Projected Audience Description—Maximum 5 Points

The applicant must clearly identify and describe the targeted audience for the project. Applicants will receive higher scores to the extent that they can reasonably and clearly describe their target audience and why the audience would choose to participate in the project. The applicant must describe why the proposed audience wants the information the project will deliver and how they will benefit from it.

B. Review and Selection Process

Applications will be evaluated using a two-part process. First, each application will be screened by RMA personnel to ensure that it meets the requirements in this announcement. Applications that do not meet the requirements of this announcement or are incomplete will not receive further consideration during the next process. Applications that meet announcement requirements will be sorted into the Targeted State in which the applicant proposes to conduct the project and will be presented to a review panel for consideration.

Second, the review panel will meet to consider and discuss the merits of each application. The panel will consist of not less than three independent reviewers. Reviewers will be drawn from USDA, other Federal agencies, and others representing public and private organizations, as needed. After considering the merits of all applications within a Targeted State, panel members will score each application according to the criteria and point values listed above. The panel will then rank each application against others within the Targeted State according to the scores received. A lottery will be used to resolve any instances of a tie score that might have a bearing on funding recommendations. If such a lottery is required, the names of all tied applicants will be entered into a drawing. The first tied applicant drawn will have priority over other tied applicants for funding consideration.

The review panel will report the results of the evaluation to the Manager of FCIC. The panel's report will include the recommended applicants to receive cooperative agreements for each Targeted State. Funding will not be provided for an application receiving a score less than 60. An organization, or group of organizations in partnership, may apply for funding under other FCIC or RMA programs, in addition to the program described in this announcement. However, if the Manager of FCIC determines that an application recommended for funding is sufficiently similar to a project that has been funded or has been recommended to be funded under another RMA or FCIC program, then the Manager may elect to not fund that application in whole or in part. The Manager of FCIC will make the final determination on those applications that will be awarded funding.

VI. Award Administration Information

A. Award Notices

Following approval by the awarding official of RMA of the applications to be selected for funding, project leaders whose applications have been selected for funding will be notified. Within the limit of funds available for such a

purpose, the awarding official of RMA shall enter into cooperative agreements with those awardees. The agreements provide the amount of Federal funds for use in the project period, the terms and conditions of the award, and the time period for the project. The effective date of the agreement shall be the date the agreement is executed by both parties and it shall remain in effect for up to one year or through September 30, 2010, whichever is later. After a cooperative agreement has been signed, RMA will extend to awardees, in writing, the authority to draw down funds for the purpose of conducting the activities listed in the agreement. All funds provided to the awardee by FCIC must be expended solely for the purpose for which the funds are obligated in accordance with the approved agreement and budget, the regulations, the terms and conditions of the award, and the applicability of Federal cost principles. No commitment of Federal assistance beyond the project period is made or implied for any award resulting from this notice.

Notification of denial of funding will be sent to applicants after final funding decisions have been made and awardees announced publicly. Reasons for denial of funding can include, but are not limited to, incomplete applications, applications with evaluation scores below 60, or applications with evaluation scores that are lower than those of other applications in a Targeted State.

B. Administrative and National Policy Requirements

1. Requirement to Use Program Logo

Awardees of cooperative agreements will be required to use a program logo and design provided by RMA for all instructional and promotional materials, if appropriate.

2. Requirement To Provide Project Information to an RMA-Selected Representative

Awardees of cooperative agreements may be required to assist RMA in evaluating the effectiveness of its educational programs by providing documentation of educational activities and related information to any representative selected by RMA for program evaluation purposes.

3. Private Crop Insurance Organizations and Potential Conflicts of Interest

Private organizations that are involved in the sale of Federal crop insurance, or that have financial ties to such organizations, are eligible to apply for funding under this announcement. However, such entities will not be allowed to receive funding to conduct activities that would otherwise be required under a Standard Reinsurance Agreement or any other agreement in effect between FCIC and the entity. Also, such entities will not be allowed to receive funding to conduct activities that could be perceived by producers as promoting one company's services or products over another's. If applying for funding, such organizations are encouraged to be sensitive to potential conflicts of interest and to describe in their application the specific actions they will take to avoid actual and perceived conflicts of interest.

4. Access to Panel Review Information

Upon written request from the applicant, scores from the evaluation panel, not including the identity of reviewers, will be sent to the applicant after the review and awards process has been completed.

5. Confidential Aspects of Applications and Awards

The names of applicants, the names of individuals identified in the applications, the content of applications, and the panel evaluations of applications will all be kept confidential, except to those involved in the review process, to the extent permitted by law. In addition, the identities of review panel members will remain confidential throughout the entire review process and will not be released to applicants. At the end of the fiscal year, names of panel members will be made available. However, panelists will not be identified with the review of any particular application.

When an application results in a cooperative agreement, that agreement becomes a part of the official record of RMA transactions, available to the public upon specific request. Information that the Secretary of Agriculture determines to be of a confidential, privileged, or proprietary nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to be considered confidential, privileged, or proprietary should be clearly marked within an application, including the basis for such designation. The original copy of an application that does not result in an award will be retained by RMA for a period of one year. Other copies will be destroyed. Copies of applications not receiving awards will be released only with the express written consent of the applicant or to the extent required by law. An application may be withdrawn at any time prior to award.

6. Audit Requirements

Awardees of cooperative agreements are subject to audit.

7. Prohibitions and Requirements With Regard to Lobbying

Section 1352 of Public Law 101–121, enacted on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on awardees of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian Tribes and Tribal organizations. Current and prospective awardees, and any subcontractors, are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement, or loan. In addition, for each award action in excess of $100,000 ($150,000 for loans) the law requires awardees and any subcontractors: (1) To certify that they have neither used nor will use any appropriated funds for payment of lobbyists; (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom awardees of their subcontractors will pay with profits or other non-appropriated funds on or after December 22, 1989; and (3) to file quarterly up-dates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for non-compliance. A copy of the certification and disclosure forms must be submitted with the application and are available at the address and telephone number listed in Section VII. Agency Contact.

8. Applicable OMB Circulars

All cooperative agreements funded as a result of this notice will be subject to the requirements contained in all applicable OMB circulars.

9. Requirement To Assure Compliance With Federal Civil Rights Laws

Project leaders of all cooperative agreements funded as a result of this notice are required to know and abide by Federal civil rights laws and to assure USDA and RMA that the awardee is in compliance with and will continue to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), 7 CFR Part 15, and USDA regulations promulgated thereunder, 7 CFR 1901.202. RMA requires that awardees submit an Assurance Agreement (Civil Rights), assuring RMA of this compliance prior to the beginning of the project period.

10. Requirement To Participate in a Post Award Conference

RMA requires that project leaders attend a post award conference, if conducted, to become fully aware of cooperative agreement requirements and for delineating the roles of RMA personnel and the procedures that will be followed in administering the agreement and will afford an opportunity for the orderly transition of agreement duties and obligations if different personnel are to assume post-award responsibility. In their applications, applicants should budget for possible travel costs associated with attending this conference.

11. Requirement To Submit Educational Materials to the National AgRisk Education Library

RMA requires that project leaders upload digital copies of all risk management educational materials developed because of the project to the National AgRisk Education Library (*http://www.agrisk.umn.edu/*) for posting, if electronically reporting. RMA will be clearly identified as having provided funding for the materials. Project leaders not reporting electronically will not be required to post educational materials onto the National AgRisk Education Library, but are highly encouraged to do so.

12. Requirement To Submit Proposed Results to the National AgRisk Education Library

RMA requires that project leaders submit results of the project to the National AgRisk Education Library (*http://www.agrisk.umn.edu/*) for posting if electronically reporting. Project leaders not reporting electronically will not be required to post results onto the National AgRisk Education Library, but are highly encouraged to do so.

13. Requirement To Submit a Project Plan of Operation in the Event of a Human Pandemic Outbreak

RMA requires that project leaders submit a project plan of operation in case of a human pandemic event. The plan should address the concept of continuing operations as they relate to the project. This should include the roles, responsibilities, and contact information for the project team and individuals serving as back-ups in case of a pandemic outbreak.

C. Reporting Requirements

Awardees will be required to submit quarterly progress reports, quarterly financial reports (OMB Standard Form 269), and quarterly Activity Logs (RMA 300 Form) throughout the project period, as well as a final program and financial report not later than 90 days after the end of the project period.

Awardees will be required to submit prior to the award:

- A completed and signed Assurance Agreement (Civil Rights).
- A completed and signed Faith-Based Survey on EEO.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Applicants and other interested parties are encouraged to contact: Lydia M. Astorga, USDA–RMA–RME, phone: 202–260–4728, fax: 202–690–3605, e-mail: *RMA.Risk-Ed@rma.usda.gov*. You may also obtain information regarding this announcement from the RMA Web site at: *http://www.rma.usda.gov/aboutrma/agreements/*.

VIII. Other Information

A. Dun and Bradstreet Data Universal Numbering System (DUNS)

A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of over 70 million businesses worldwide. The Office of Management and Budget published a notice of final policy issuance in the **Federal Register** June 27, 2003 (68 FR 38402) that requires a DUNS number in every application (*i.e.*, hard copy and electronic) for a grant or cooperative agreement on or after October 1, 2003. Therefore, potential applicants should verify that they have a DUNS number or take the steps needed to obtain one. For information about how to obtain a DUNS number, go to *http://www.grants.gov*. Please note that the registration may take up to 14 business days to complete.

B. Required Registration with the Central Contract Registry (CCR) for Submission of Proposals

The Central Contract Registry (CCR) is a database that serves as the primary Government repository for contractor information required for the conduct of business with the Government. This database will also be used as a central location for maintaining organizational information for organizations seeking and receiving grants from the Government. Such organizations must register in the CCR prior to the submission of applications. A DUNS number is needed for CCR registration. For information about how to register in the CCR, visit ''Get Started'' at the Web site, *http://www.grants.gov*. Allow a minimum of 5 business days to complete the CCR registration.

C. Related Programs

Funding availability for this program may be announced at approximately the same time as funding availability for similar but separate programs—CFDA No. 10.455 (Community Outreach and Assistance Partnerships), and CFDA No. 10.457 (Commodity Partnerships For Risk Management Education). These programs have some similarities, but also key differences. The differences stem from important features of each program's authorizing legislation and different RMA objectives. Prospective applicants should carefully examine and compare the notices for each program.

Signed in Washington, DC, on March 4, 2009.

William J. Murphy,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. E9–6821 Filed 3–26–09; 8:45 am]

BILLING CODE

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Child Nutrition Programs—Income Eligibility Guidelines

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces the Department's annual adjustments to the Income Eligibility Guidelines to be used in determining eligibility for free and reduced price meals and free milk for the period from July 1, 2009 through June 30, 2010. These guidelines are used by schools, institutions, and facilities participating in the National School Lunch Program (and Commodity School Program), School Breakfast Program, Special Milk Program for Children, Child and Adult Care Food Program and Summer Food Service Program. The annual adjustments are required by section 9 of the Richard B. Russell National School Lunch Act. The guidelines are intended to direct benefits to those children most in need and are revised annually to account for changes in the Consumer Price Index.

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

FOR FURTHER INFORMATION CONTACT: William Wagoner, Supervisory Program Analyst, School Programs Section, Child Nutrition Division, FNS, USDA, Alexandria, Virginia 22302, or by phone at (703) 305–2590.

SUPPLEMENTARY INFORMATION: This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C.

601–612) and thus is exempt from the provisions of that Act.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), no recordkeeping or reporting requirements have been included that are subject to approval from the Office of Management and Budget.

This notice has been determined to be not significant and was reviewed by the Office of Management and Budget in conformance with Executive Order 12866.

The affected programs are listed in the Catalog of Federal Domestic Assistance under No. 10.553, No. 10.555, No. 10.556, No. 10.558 and No. 10.559 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V, and the final rule related notice published at 48 FR 29114, June 24, 1983.)

Background

Pursuant to sections 9(b)(1) and 17(c)(4) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(1) and 42 U.S.C. 1766(c)(4)), and sections 3(a)(6) and 4(e)(1)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)(6) and 1773(e)(1)(A)), the Department annually issues the Income Eligibility Guidelines for free and reduced price meals for the National School Lunch Program (7 CFR Part 210), the Commodity School Program (7 CFR Part 210), School Breakfast Program (7 CFR Part 220), Summer Food Service Program (7 CFR Part 225) and Child and Adult Care Food Program (7 CFR Part 226) and the guidelines for free milk in the Special Milk Program for Children (7 CFR Part 215). These eligibility guidelines are based on the Federal income poverty guidelines and are stated by household size. The guidelines are used to determine eligibility for free and reduced price meals and free milk in accordance with applicable program rules.

Definition of Income

In accordance with the Department's policy as provided in the Food and Nutrition Service publication *Eligibility Manual for School Meals,* ''income,'' as the term is used in this Notice, means income before any deductions such as income taxes, Social Security taxes, insurance premiums, charitable contributions and bonds. It includes the following: (1) Monetary compensation for services, including wages, salary, commissions or fees; (2) net income from nonfarm self-employment; (3) net income from farm self-employment; (4) Social Security; (5) dividends or interest on savings or bonds or income from estates or trusts; (6) net rental income; (7) public assistance or welfare payments; (8) unemployment compensation; (9) government civilian employee or military retirement, or pensions or veterans payments; (10) private pensions or annuities; (11) alimony or child support payments; (12) regular contributions from persons not living in the household; (13) net royalties; and (14) other cash income. Other cash income would include cash amounts received or withdrawn from any source including savings, investments, trust accounts and other resources that would be available to pay the price of a child's meal.

''Income,'' as the term is used in this Notice, does *not* include any income or benefits received under any Federal programs that are excluded from consideration as income by any statutory prohibition. Furthermore, the value of meals or milk to children shall not be considered as income to their households for other benefit programs in accordance with the prohibitions in section 12(e) of the Richard B. Russell National School Lunch Act and section 11(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1760(e) and 1780(b)).

The Income Eligibility Guidelines

The following are the Income Eligibility Guidelines to be effective from July 1, 2009 through June 30, 2010. The Department's guidelines for free meals and milk and reduced price meals were obtained by multiplying the year 2009 Federal income poverty guidelines by 1.30 and 1.85, respectively, and by rounding the result upward to the next whole dollar.

This Notice displays only the annual Federal poverty guidelines issued by the Department of Health and Human Services because the monthly and weekly Federal poverty guidelines are not used to determine the Income Eligibility Guidelines. The chart details the free and reduced price eligibility criteria for monthly income, income received twice monthly (24 payments per year), income received every two weeks (26 payments per year) and weekly income.

Income calculations are made based on the following formulas: Monthly income is calculated by dividing the annual income by 12; twice monthly income is computed by dividing annual income by 24; income received every two weeks is calculated by dividing annual income by 26; and weekly income is computed by dividing annual income by 52. All numbers are rounded upward to the next whole dollar. The numbers reflected in this notice for a family of four in the 48 contiguous states, the District of Columbia, Guam and the territories represent an increase of 4.0% over last year's level for a family of the same size.

BILLING CODE 3410–30–P

INCOME ELIGIBILITY GUIDELINES

Effective from July 1, 2009 to June 30, 2010

HOUSEHOLD SIZE	FEDERAL POVERTY GUIDELINES ANNUAL	REDUCED PRICE MEALS - 185 % ANNUAL	MONTHLY	TWICE PER MONTH	EVERY TWO WEEKS	WEEKLY	FREE MEALS - 130 % ANNUAL	MONTHLY	TWICE PER MONTH	EVERY TWO WEEKS	WEEKLY
48 CONTIGUOUS STATES, DISTRICT OF COLUMBIA, GUAM, AND TERRITORIES											
1	10,830	20,036	1,670	835	771	386	14,079	1,174	587	542	271
2	14,570	26,955	2,247	1,124	1,037	519	18,941	1,579	790	729	365
3	18,310	33,874	2,823	1,412	1,303	652	23,803	1,984	992	916	458
4	22,050	40,793	3,400	1,700	1,569	785	28,665	2,389	1,195	1,103	552
5	25,790	47,712	3,976	1,988	1,836	918	33,527	2,794	1,397	1,290	645
6	29,530	54,631	4,553	2,277	2,102	1,051	38,389	3,200	1,600	1,477	739
7	33,270	61,550	5,130	2,565	2,368	1,184	43,251	3,605	1,803	1,664	832
8	37,010	68,469	5,706	2,853	2,634	1,317	48,113	4,010	2,005	1,851	926
For each add'l family member, add	3,740	6,919	577	289	267	134	4,862	406	203	187	94
ALASKA											
1	13,530	25,031	2,086	1,043	963	482	17,589	1,466	733	677	339
2	18,210	33,689	2,808	1,404	1,296	648	23,673	1,973	987	911	456
3	22,890	42,347	3,529	1,765	1,629	815	29,757	2,480	1,240	1,145	573
4	27,570	51,005	4,251	2,126	1,962	981	35,841	2,987	1,494	1,379	690
5	32,250	59,663	4,972	2,486	2,295	1,148	41,925	3,494	1,747	1,613	807
6	36,930	68,321	5,694	2,847	2,628	1,314	48,009	4,001	2,001	1,847	924
7	41,610	76,979	6,415	3,208	2,961	1,481	54,093	4,508	2,254	2,081	1,041
8	46,290	85,637	7,137	3,569	3,294	1,647	60,177	5,015	2,508	2,315	1,158
For each add'l family member, add	4,680	8,658	722	361	333	167	6,084	507	254	234	117
HAWAII											
1	12,460	23,051	1,921	961	887	444	16,198	1,350	675	623	312
2	16,760	31,006	2,584	1,292	1,193	597	21,788	1,816	908	838	419
3	21,060	38,961	3,247	1,624	1,499	750	27,378	2,282	1,141	1,053	527
4	25,360	46,916	3,910	1,955	1,805	903	32,968	2,748	1,374	1,268	634
5	29,660	54,871	4,573	2,287	2,111	1,056	38,558	3,214	1,607	1,483	742
6	33,960	62,826	5,236	2,618	2,417	1,209	44,148	3,679	1,840	1,698	849
7	38,260	70,781	5,899	2,950	2,723	1,362	49,738	4,145	2,073	1,913	957
8	42,560	78,736	6,562	3,281	3,029	1,515	55,328	4,611	2,306	2,128	1,064
For each add'l family member, add	4,300	7,955	663	332	306	153	5,590	466	233	215	108

Authority: (42 U.S.C. 1758(b)(1))

Dated: March 22, 2009.

E. Enrique Gomez,

Acting Administrator.

[FR Doc. E9–6806 Filed 3–26–09; 8:45 am]

BILLING CODE 3410–30–C

DEPARTMENT OF AGRICULTURE

Forest Service

Dixie National Forest; Tropic To Hatch 138kV Transmission Line Project, Correction to Include Notice of Intent To Amend the Bureau of Land Management, Grand Staircase-Escalante National Monument Management Plan

AGENCY: Forest Service, USDA and Bureau of Land Management, USDI.

ACTION: Correction to notice of intent.

SUMMARY: Pursuant to section 102(2) of the National Environmental Policy Act of 1969, 40 Code of Federal Regulations (CFR) subparts 1500–1508, and 43 CFR subpart 1610.5–5 (Planning Regulations), notice is hereby given that the Bureau of Land Management (BLM), Grand Staircase-Escalante National Monument intends to prepare an amendment to the Grand Staircase-Escalante National Monument Management Plan (MMP) with an associated environmental impact statement (EIS) in cooperation with the U.S. Forest Service as lead agency. The Dixie National Forest published a Notice of Intent in the **Federal Register** to initiate this proposal on February 21, 2008, but did not include the BLM's Grand Staircase-Escalante National Monument (GSENM) Notice of Intent into its heading. The publication of this **Federal Register** notice is to make the public aware that this action also applies to a possible land use plan amendment to the MMP. Discussion of the GSENM amendment was in the body of the original **Federal Register** notice, but was not evident in the title. The public is now provided a second opportunity to review and provide comments on this possible amendment to the BLM's MMP based on the planning criteria identified in the **SUPPLEMENTARY INFORMATION** below.

DATES: Public comments should be submitted in writing to the address listed below within 30 days following the publication of this notice in the **Federal Register**.

ADDRESSES: Send written comments to Paul Chapman, Grand Staircase-Escalante National Monument, Tropic to Hatch 138kV Transmission Line, BLM Project Leader, 190 East Center, Kanab, Utah 84741. E-mail: *tropic_to_hatch_transmission_line_eis_comments@fs.fed.us*. E-mailed comments must be submitted in MS Word (*.doc) or rich text format (*.rtf) and should include the project name in the subject line. Written comments may also be submitted at the above address during regular business hours of 8 a.m. to 4:30 p.m., Monday-Friday.

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. Comments may be published as part of the EIS.

FOR FURTHER INFORMATION CONTACT: Paul Chapman, Grand Staircase-Escalante National Monument project coordinator, 190 East Center, Kanab, Utah 84741 or phone (435) 644–4309.

SUPPLEMENTARY INFORMATION: This Notice of Intent to amend the MMP responds to a proposal from Garkane Energy Cooperative to construct, operate and maintain a 138 kilovolt (kV) electric transmission line in Garfield County,

Utah. The project is known as the Garkane Energy Cooperative Tropic to Hatch 138kV Transmission Line and is proposed to cross over USFS, Park Service and/or BLM lands. A plan amendment for BLM's MMP is needed to analyze the proposal which occurs outside of the current utility right-of-way identified in the MMP (February, 2000). The proposal occurs in an area identified as a Primitive Management Zone and Visual Resource Management (VRM) Class II zone as described in the MMP. The construction of transmission lines is not provided for in this zone (Decisions #LAND–7 and VRM–1). In summary, these decisions state: (1) ''In the primitive zone, utility rights-of-way will not be permitted. In cases of extreme need for local (not regional) needs and where other alternatives are not available, a plan amendment could be considered for those facilities.'' and (2) ''Utilizing the results of the visual resource inventory and other resource allocation considerations, 68 percent lands within the Monument will be assigned to VRM Class II and 32 percent of the lands within the Monument will be assigned to VRM Class III, as shown on Map 6.'' However, the construction of new utility rights-of-way is provided for in the MMP (Decision #LAND–5 and VRM–1). The proposed plan amendment would change the Management Zone from Primitive to Passage and VRM Class II to III. This amendment would consider a right-of-way corridor within the Passage Zone to accommodate an existing utility right-of-way, the proposed utility right-of-way, and the possibility of additional rights-of-way in the future. Therefore, this corridor would be considered in the amendment to change the Primitive Zone to a Passage Zone and the VRM Class II to a VRM Class III.

The Bureau of Land Management planning regulations (43 CFR 1600) require the preparation of planning criteria to guide the development of resource management plan amendments. Planning criteria ensure that plans are tailored to the identified issues and ensure that unnecessary data collections and analysis are avoided. These general planning criteria will be used to develop the MMP amendment for the Tropic to Hatch Transmission Line Project. The planning criteria primarily remain the same as were presented in the February 21, 2008 **Federal Register** notice, with a slight change to the first bulleted criteria. This criterion has been broadened to include a right-of-way corridor, instead of only one right-of-way project. The planning criteria are as follows:

- The plan amendment will consider a right-of-way utility corridor currently within a primitive zone adjacent to an existing utility right-of-way.
- The plan amendment will be completed in compliance with the Federal Land Policy and Management Act and all other applicable laws.
- The plan amendment will meet the intent of the Proclamation that established Grand Staircase-Escalante National Monument which protects objects of geological, paleontological, archaeological, biological, and historic values within the Monument.

The lead Federal agency indentified for the proposed project is the Department of Agriculture, Dixie National Forest. The Bureau of Land Management (Kanab Field Office and Grand Staircase-Escalante National Monument) and the National Park Service are cooperating agencies. For more information regarding the proposed project, refer to the Notice of Intent to Prepare an Environmental Impact Statement, published in the **Federal Register** on February 21, 2008 (Volume 73, Number 35, page 9517–9521).

Dated: March 12, 2009.

Robert G. MacWhorter,

Forest Supervisor, Dixie National Forest.

[FR Doc. E9–6027 Filed 3–26–09; 8:45 am]

BILLING CODE 3410–11–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete products and services previously furnished by such agencies.

Comments Must Be Received on or Before: April 27, 2009.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each product or service will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.
2. If approved, the action will result in authorizing small entities to furnish the services to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Services

Service Type/Location: Administrative Services, HUD Birmingham Field Office, 950 22nd St North, Birmingham, AL.
NPA: Tommy Nobis Enterprises, Inc., Marietta, GA.
Contracting Activity: Dept. of Housing and Urban Development, Chicago, IL.

Service Type/Location: Switchboard Operation, Tuskegee VA Medical Center, 2400 Hospital Road, Tuskegee, AL.
NPA: Bobby Dodd Institute, Inc., Atlanta, GA.
Contracting Activity: Department of Veterans Affairs, Augusta, GA.

Service Type/Location: Custodial Services, Allegheny National Forest, 4 Farm Colony Drive, Warren, PA.
NPA: Bollinger Enterprises, North Warren, PA.

Contracting Activity: Dept. of Agriculture/ Forest Service, Warren, PA.

Deletions

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. If approved, the action may result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for deletion from the Procurement List.

End of Certification

The following products and services are proposed for deletion from the Procurement List:

Products

PCU, Level 1 Boxer

NSN: 8420–01–542–5494—Size S.
NSN: 8420–01–542–5495—Size M.
NSN: 8420–01–542–5496—Size L.
NSN: 8420–01–542–5497—Size LL.
NSN: 8420–01–542–5499—Size XL.
NSN: 8420–01–542–5500—Size XLL.
NSN: 8420–01–542–5491—Size XS.
NSN: 8420–01–543–7068—Size ML.
NSN: 8420–01–542–5478—Size XXL.
NSN: 8420–01–542–5490—Size XXLL.
NSN: 8420–01–542–5485—Size XXXL.
NSN: 8420–01–542–5488—Size XXXLL.
NPA: Southeastern Kentucky Rehabilitation Industries, Inc., Corbin, KY.
Contracting Activity: XR W40M Natl Region Contract Ofc, Washington, DC.

Services

Service Type/Location: Administrative Services, GSA, Las Vegas—Nevada Field Office: 600 Las Vegas Boulevard, 600 Las Vegas Boulevard South, Las Vegas, NV.
NPA: Opportunity Village Association for Retarded Citizens, Las Vegas, NV.
Contracting Activity: Bureau of Immigration and Customs Enforcement, FPS West, Consolidated Contract Group, Denver, CO.

Service Type/Location: Custodial Services, Department of Homeland Security: 6416 Sossamon Road (Williams Gateway Airport), 6416 Sossamon, Mesa, AZ.
NPA: Goodwill Community Services, Inc., Phoenix, AZ.
Contracting Activity: Bureau of Customs and Border Protection, Office of Procurement, Washington, DC.

Service Type/Location: Custodial Services, VA Primary Care Center, North Pinellas Park, St Petersburg, Marion City, Naples & Sarasota, Multiple Locations, FL.
NPA: Abilities, Inc. of Florida, Clearwater, FL.
Contracting Activity: Dept. of Veterans Affairs, St. Petersburg, FL.

Barry S. Lineback,
Director, Business Operations.

[FR Doc. E9–6904 Filed 3–26–09; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Deletions from Procurement List.

SUMMARY: This action deletes from the Procurement List products previously furnished by such agencies.

DATES: *Effective Date*: April 27, 2009.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION:

Deletions: On 1/16/2009, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (74 FR 2994) of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products deleted from the Procurement List.

End of Certification

Accordingly, the following products are deleted from the Procurement List:

Products

NSN: 6515–00–103–6659—Surgical Pack, Disposable.
NPA: In-Sight, Warwick, RI.
Contracting Activity: Veterans Administration, NAC, Hines, IL.
NSN: 7510–01–484–4591—Pad, Folio.
NSN: 7510–01–484–4593—Pad, Folio.
NSN: 7510–01–484–4592—Pad, Folio.
NPA: Winston-Salem Industries for the Blind, Winston-Salem, NC.
Contracting Activity: GSA/FSS OFC SUP CTR—Paper Products, New York, NY.
NSN: 7930–01–367–2966—Cleaner, Water Soluble.
NPA: Assoc f/t Blind &Visually Impaired & Goodwill Ind. of Greater Rochester, Rochester, NY.
Contracting Activity: GSA/FAS Southwest Supply Center (QSDAC), Fort Worth, TX.

Barry S. Lineback,
Director, Business Operations.

[FR Doc. E9–6905 Filed 3–26–09; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

(A–549–502)

Circular Welded Carbon Steel Pipes and Tubes from Thailand: Extension of Time Limit for Preliminary Results of New Shipper Antidumping Duty Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 27, 2009.

FOR FURTHER INFORMATION CONTACT: Myrna Lobo or Jacqueline Arrowsmith, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482–2371 and (202) 482–5255, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 28, 2008, the Department of Commerce (the Department) initiated the new shipper review of the antidumping duty order on circular

welded carbon steel pipes and tubes from Thailand for the period March 1, 2008 through September 30, 2008. *See Circular Welded Carbon Steel Pipes and Tubes from Thailand: Initiation of New Shipper Antidumping Duty Review*, 73 FR 65290 (November 3, 2008). The preliminary results of this administrative review are currently due no later than April 26, 2009.

Extension of Time Limit for Preliminary Results

Pursuant to section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(i)(1), the Department shall issue preliminary results in a new shipper review of an antidumping duty order within 180 days of after the date on which the new shipper review was initiated. The Act further provides, however, that the Department may extend that 180-day period to 300 days if it is extraordinarily complicated. *See* 751(a)(2)(B) and 19 CFR 351.214(i)(2).

In this new shipper review, the Department needs to analyze whether the sales under review are *bona fide* sales. In addition, the Department needs additional time to fully analyze the supplemental questionnaire responses due from respondent and to conduct a sales verification of the questionnaire response. Therefore, in accordance with section 751(a)(2)(B) of the Act, the Department has decided to extend the time limit for the preliminary results to 300 days to August 24, 2009. Unless extended, the final results continue to be due 90 days after the publication of the preliminary results, pursuant to section 751(a)(2)(B) of the Act and section 351.214(i)(1) of the Department's regulations.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 19, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–6897 Filed 3–26–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–801]

Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Initiation of Antidumping Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date*: March 27, 2009.

SUMMARY: The Department of Commerce (''Department'') has determined that a request for a new shipper review (''NSR'') of the antidumping duty order on certain frozen fish fillets (''fish fillets'') from the Socialist Republic of Vietnam (''Vietnam''), received on February 6, 2009, meets the statutory and regulatory requirements for initiation. The period of review (''*POR*'') for this NSR is August 1, 2008–January 31, 2009.

FOR FURTHER INFORMATION CONTACT: Tim Lord, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: 202–482–7425.

SUPPLEMENTARY INFORMATION:

Background

The notice announcing the antidumping duty order on fish fillets from Vietnam was published in the **Federal Register** on August 12, 2003. See Notice of Antidumping Duty Order: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam, 68 FR 47909 (August 12, 2003).[1] On February 6, 2009, pursuant to section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended (''Act''), and 19 CFR 351.214(c), the Department received a NSR request from NTSF Seafoods Joint Stock Company (''NTSF''). NTSF certified that it is the producer and exporter of the subject merchandise upon which the request was based. NTSF also submitted a public version, which adequately summarized proprietary information and provided explanations as to why certain proprietary information is not capable of summarization.

Pursuant to section 751(a)(2)(B)(i)(I) of the Act and 19 CFR 351.214(b)(2)(i), NTSF certified that it did not export fish fillets to the United States during the period of investigation (''POI''). In addition, pursuant to section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A), NTSF certified that, since the initiation of the investigation, it has never been affiliated with any Vietnamese exporter or producer who exported fish fillets to the United States during the POI, including those not individually examined during the investigation. As required by 19 CFR 351.214(b)(2)(iii)(B), NTSF also certified that its export activities were not controlled by the central government of Vietnam.

In addition to the certifications described above, pursuant to 19 CFR 351.214(b)(2)(iv), NTSF submitted documentation establishing the following: (1) The date on which NTSF first shipped fish fillets for export to the United States and the date on which the fish fillets were first entered, or withdrawn from warehouse, for consumption; (2) the volume of its first shipment; and (3) the date of its first sale to an unaffiliated customer in the United States.

The Department conducted U.S. Customs and Border Protection (''CBP'') database queries in an attempt to confirm that NTSF's shipments of subject merchandise had entered the United States for consumption and that liquidation of such entries had been properly suspended for antidumping duties. The Department also examined whether the CBP data confirmed that such entries were made during the NSR POR. The information we examined was consistent with that provided by NTSF.

Initiation of New Shipper Reviews

Pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(d)(1), the Department finds that NTSF meets the threshold requirements for initiation of a NSR for the shipments of fish fillets from Vietnam it produced and exported. See ''Memorandum to File from Tim Lord, Case Analyst, Certain Frozen Fish Fillets from Vietnam: Initiation of AD New Shipper Review for NTSF Seafoods Joint Stock Company,'' (March 24, 2009):

The Department intends to issue the preliminary results of this NSR no later than 180 days from the date of initiation, and final results no later than 270 days from the date of initiation. See section 751(a)(2)(B)(iv) of the Act.

On August 17, 2006, the Pension Protection Act of 2006 (''H.R. 4'') was signed into law. Section 1632 of H.R. 4 temporarily suspends the authority of the Department to instruct CBP to collect a bond or other security in lieu of a cash deposit in new shipper reviews. Therefore, the posting of a bond under section 751(a)(B)(iii) of the

[1] Therefore, a semi-annual request for a NSR, based on the annual anniversary month, August, was due to the Department by February 28, 2009. *See* 19 CFR 351.214(d)(1).

Act in lieu of a cash deposit is not available in this case. Importers of fish fillets from Vietnam manufactured and/or exported by NTSF must continue to post cash deposits of estimated antidumping duties on each entry of subject merchandise at the current Vietnam-wide rate of 63.88 percent.

Interested parties requiring access to proprietary information in this NSR should submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are published in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

Dated: March 24, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–6909 Filed 3–26–09; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–552–802

Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Initiation of Antidumping Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 27, 2009.

SUMMARY: The Department of Commerce (''Department'') has determined that a request for a new shipper review (''NSR'') of the antidumping duty order on certain frozen warmwater shrimp (''shrimp'') from the Socialist Republic of Vietnam (''Vietnam''), received on February 26, 2009, meets the statutory and regulatory requirements for initiation. The period of review (''POR'') for this NSR is February 1, 2008 January 31, 2009.

FOR FURTHER INFORMATION CONTACT: Irene Gorelik, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: 202–482–6905.

SUPPLEMENTARY INFORMATION:

Background

The notice announcing the antidumping duty order on shrimp from Vietnam was published in the **Federal Register** on February 1, 2005. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam*, 70 FR 5152 (February 1, 2005).[1] On February 26, 2009, pursuant to section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended (''Act''), and 19 CFR 351.214(c), the Department received a NSR request from Nhat Duc Co., Ltd. (''Nhat Duc''). Nhat Duc certified that it produces and exports the subject merchandise upon which the request was based. On March 3, 2009, Nhat Duc resubmitted the public version of its February 26, 2009, request because of bracketing errors. See Nhat Duc's revised public version, dated March 3, 2009.

Pursuant to section 751(a)(2)(B)(i)(I) of the Act and 19 CFR 351.214(b)(2)(i), Nhat Duc certified that it did not export shrimp to the United States during the period of investigation (''POI''). In addition, pursuant to section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A), Nhat Duc certified that, since the initiation of the investigation, it has never been affiliated with any Vietnamese exporter or producer who exported shrimp to the United States during the POI, including those not individually examined during the investigation. As required by 19 CFR 351.214(b)(2)(iii)(B), Nhat Duc also certified that its export activities were not controlled by the central government of Vietnam.

In addition to the certifications described above, pursuant to 19 CFR 351.214(b)(2)(iv), Nhat Duc submitted documentation establishing the following: (1) the date on which Nhat Duc first shipped shrimp for export to the United States and the date on which the shrimp were first entered, or withdrawn from warehouse, for consumption; (2) the volume of its first shipment; and (3) the date of its first sale to an unaffiliated customer in the United States.

The Department conducted United States Customs and Border Protection (''CBP'') database queries in an attempt to confirm that Nhat Duc's shipments of subject merchandise had entered the United States for consumption and that liquidation of such entries had been properly suspended for antidumping duties. The Department also examined whether the CBP data confirmed that such entries were made during the NSR POR. The information we examined was consistent with that provided by Nhat Duc.

Initiation of New Shipper Review

Pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(d)(1), the Department finds that Nhat Duc meets the threshold requirements for initiation of a NSR for the shipment of shrimp from Vietnam it produced and exported. *See* ''Memorandum to File through James C. Doyle, Director, Office 9 from Catherine Bertrand, Program Manager, Office 9; Re: Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Initiation of AD New Shipper Review for Nhat Duc Co., Ltd.,'' dated March 20, 2009.

The Department intends to issue the preliminary results of this NSR no later than 180 days from the date of initiation, and final results no later than 270 days from the date of initiation. *See* section 751(a)(2)(B)(iv) of the Act.

On August 17, 2006, the Pension Protection Act of 2006 (''H.R. 4'') was signed into law. Section 1632 of H.R. 4 temporarily suspends the authority of the Department to instruct CBP to collect a bond or other security in lieu of a cash deposit in new shipper reviews. Therefore, the posting of a bond under section 751(a)(B)(iii) of the Act in lieu of a cash deposit is not available in this case. Importers of shrimp from Vietnam manufactured and/or exported by Nhat Duc must continue to post cash deposits of estimated antidumping duties on each entry of subject merchandise at the current Vietnam–wide rate of 25.76 percent.

Interested parties requiring access to proprietary information in this NSR should submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306. This initiation and notice are published in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

Dated: March 20, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–6908 Filed 3–26–09; 8:45 am]

BILLING CODE 3510–DS–S

[1] Therefore, a request for a NSR based on the annual anniversary month, February, was due to the Department by February 28, 2009. *See* 19 CFR 351.214(d)(1).

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–890

Second Amended Final Results of Antidumping Duty Administrative Review: Wooden Bedroom Furniture from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On August 20, 2008, the Department of Commerce (''Department'') published in the **Federal Register** the final results of the second administrative review and concurrent new shipper review of the antidumping duty order on wooden bedroom furniture from the People's Republic of China (''PRC''). *See Wooden Bedroom Furniture from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review*, 73 FR 49162 (August 20, 2008) (''*Final Results*'') and accompanying Issues and Decision Memorandum (August 8, 2007) (''Issues and Decision Memo''). The period of review (''POR'') covered January 1, 2006, through December 31, 2006. On January 28, 2009, the Department published amended final results in the **Federal Register**. *See Amended Final Results of Antidumping Duty Administrative Review: Wooden Bedroom Furniture From the People's Republic of China*, 74 FR 4916 (January 28, 2009) (''*First Amended Final Results*''). We are amending our *First Amended Final Results* to correct ministerial errors made in the calculation of the antidumping duty margin for Fujian Lianfu Forestry Co./Fujian Wonder Pacific Inc./Fuzhou Huan Mei Furniture Co., Ltd./Jiangsu Dare Furniture Co., Ltd. (collectively, ''the Dare Group'') and Teamway Furniture (Dong Guan) Co., Ltd., and Brittomart Inc. (collectively ''Teamway''), pursuant to section 751(h) of the Tariff Act of 1930, as amended (''Act''). These corrections will also affect the dumping margins for the other companies in the review to which a separate rate applies. Dumping margins calculated with respect to the new shipper review concurrent with this administrative review are unaffected by these amended final results. *See* the ''Ministerial Error Memorandum for the Second Amended Final Results of the 2006 Administrative Review of Wooden Bedroom Furniture from the People's Republic China'' (''Ministerial Error Memo''), dated March 20, 2009.

EFFECTIVE DATE: August 20, 2008.

FOR FURTHER INFORMATION CONTACT: Paul Stolz, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4474.

SUPPLEMENTARY INFORMATION:

Background

On February 12, 2009, American Furniture Manufacturers Committee for Legal Trade and Vaughan–Bassett Furniture Company (''Petitioners'') filed timely ministerial error allegations with respect to the Department's antidumping duty margin calculation in the *First Amended Final Results*. Teamway filed timely ministerial error allegations on February 17, 2009. No other interested party filed comments, and no interested party submitted rebuttal comments.

Scope of the Order

The product covered by the order is wooden bedroom furniture. Wooden bedroom furniture is generally, but not exclusively, designed, manufactured, and offered for sale in coordinated groups, or bedrooms, in which all of the individual pieces are of approximately the same style and approximately the same material and/or finish. The subject merchandise is made substantially of wood products, including both solid wood and also engineered wood products made from wood particles, fibers, or other wooden materials such as plywood, oriented strand board, particle board, and fiberboard, with or without wood veneers, wood overlays, or laminates, with or without non–wood components or trim such as metal, marble, leather, glass, plastic, or other resins, and whether or not assembled, completed, or finished.

The subject merchandise includes the following items: (1) wooden beds such as loft beds, bunk beds, and other beds; (2) wooden headboards for beds (whether stand–alone or attached to side rails), wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds; (3) night tables, night stands, dressers, commodes, bureaus, mule chests, gentlemen's chests, bachelor's chests, lingerie chests, wardrobes, vanities, chessers, chifforobes, and wardrobe–type cabinets; (4) dressers with framed glass mirrors that are attached to, incorporated in, sit on, or hang over the dresser; (5) chests–on-chests,[1] highboys,[2] lowboys,[3] chests of drawers,[4] chests,[5] door chests,[6] chiffoniers,[7] hutches,[8] and armoires;[9] (6) desks, computer stands, filing cabinets, book cases, or writing tables that are attached to or incorporated in the subject merchandise; and (7) other bedroom furniture consistent with the above list.

The scope of the order excludes the following items: (1) seats, chairs, benches, couches, sofas, sofa beds, stools, and other seating furniture; (2) mattresses, mattress supports (including box springs), infant cribs, water beds, and futon frames; (3) office furniture, such as desks, stand–up desks, computer cabinets, filing cabinets, credenzas, and bookcases; (4) dining room or kitchen furniture such as dining tables, chairs, servers, sideboards, buffets, corner cabinets, china cabinets, and china hutches; (5) other non–bedroom furniture, such as television cabinets, cocktail tables, end tables, occasional tables, wall systems, book cases, and entertainment systems; (6) bedroom furniture made primarily of wicker, cane, osier, bamboo or rattan; (7) side rails for beds made of metal if sold separately from the headboard and footboard; (8) bedroom furniture in which bentwood parts predominate;[10] (9) jewelry armoires;[11] (10) cheval

[1] A chest-on-chest is typically a tall chest-of-drawers in two or more sections (or appearing to be in two or more sections), with one or two sections mounted (or appearing to be mounted) on a slightly larger chest; also known as a tallboy.

[2] A highboy is typically a tall chest of drawers usually composed of a base and a top section with drawers, and supported on four legs or a small chest (often 15 inches or more in height).

[3] A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

[4] A chest of drawers is typically a case containing drawers for storing clothing.

[5] A chest is typically a case piece taller than it is wide featuring a series of drawers and with or without one or more doors for storing clothing. The piece can either include drawers or be designed as a large box incorporating a lid.

[6] A door chest is typically a chest with hinged doors to store clothing, whether or not containing drawers. The piece may also include shelves for televisions and other entertainment electronics.

[7] A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

[8] A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

[9] An armoire is typically a tall cabinet or wardrobe (typically 50 inches or taller), with doors, and with one or more drawers (either exterior below or above the doors or interior behind the doors), shelves, and/or garment rods or other apparatus for storing clothes. Bedroom armoires may also be used to hold television receivers and/or other audio-visual entertainment systems.

[10] As used herein, bentwood means solid wood made pliable. Bentwood is wood that is brought to a curved shape by bending it while made pliable with moist heat or other agency and then set by cooling or drying. See Customs' Headquarters' Ruling Letter 043859, dated May 17, 1976.

[11] Any armoire, cabinet or other accent item for the purpose of storing jewelry, not to exceed 24'' in width, 18'' in depth, and 49'' in height, including

Continued

mirrors;[12] (11) certain metal parts;[13] (12) mirrors that do not attach to, incorporate in, sit on, or hang over a dresser if they are not designed and marketed to be sold in conjunction with a dresser as part of a dresser–mirror set; (13) upholstered beds;[14] and (14) toy boxes.[15] Imports of subject merchandise are classified under subheading 9403.50.9040 of the HTSUS as ''wooden . . . beds'' and under subheading 9403.50.9080 of the HTSUS as ''other . . . wooden furniture of a kind used in the bedroom.'' In addition, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds may also be entered under subheading 9403.50.9040 of the HTSUS as ''parts of wood'' and framed glass mirrors may also be entered under subheading 7009.92.5000 of the HTSUS as ''glass mirrors . . . framed.''

This order covers all wooden bedroom furniture meeting the above description, regardless of tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Ministerial Errors

A ministerial error is defined in section 751(h) of the Act and further clarified in 19 CFR 351.224(f) as ''an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial.''

After analyzing all interested parties' comments, we have determined, in accordance with 19 CFR 351.224(e), that ministerial errors existed in certain calculations for the Dare Group and Teamway in the *First Amended Final Results*. Correction of these errors results in a change to the Dare Group's and Teamway's final antidumping duty margins. Additionally, the rate change for the Dare Group and Teamway also affects the dumping margins for the other companies subject to the administrative review that receive a separate rate. The dumping margin for the PRC–wide entity remains unchanged. For a detailed discussion of these ministerial errors, as well as the Department's analysis, *see* the Ministerial Error Memo. The Ministerial Error Memo is on file in the Central Records Unit, room 1117 in the main Department building.

Therefore, in accordance with section 751(h) of the Act and 19 CFR 351.224(e), we are amending the *First Amended Final Results* of the administrative review of wooden bedroom furniture from the PRC. The revised weighted–average dumping margins are detailed below. For company–specific calculations, see ''Analysis Memorandum for the Second Amended Final Results for the Dare Group,'' dated March 20, 2009, and ''Antidumping Duty Administrative Review: Wooden Bedroom Furniture from the People's Republic of China: Analysis of the Second Amended Final Results Margin Calculation for Teamway Furniture (Dong Guan) Ltd. and Brittomart Incorporated,'' dated March 20, 2009. Listed below are the revised weighted–average dumping margins resulting from these amended final results:

WOODEN BEDROOM FURNITURE FROM THE PRC

Exporter	Weighted–Average Margin (Percent)
Fujian Lianfu Forestry Co., Ltd., aka Fujian Wonder Pacific Inc. (Dare Group)	39.46
Fuzhou Huan Mei Furniture Co., Ltd. (Dare Group)	39.46
Jiangsu Dare Furniture Co., Ltd. (Dare Group)	39.46
Teamway Furniture (Dong Guan) Co. Ltd., Brittomart Inc.	22.29
BNBM Co., Ltd. (aka Beijing New Material Co., Ltd.)	32.23
Classic Furniture Global Co., Ltd.	32.23
Dalian Guangming Furniture Co., Ltd.	32.23
Decca Furniture Ltd., aka Decca	32.23
Dong Guan Golden Fortune Houseware Co., Ltd.	32.23
Dongguan Mingsheng Furniture Co., Ltd.	32.23
Dongguan Yihaiwei Furniture Limited	32.23
Fortune Furniture Ltd. and its affiliate, Dongguan Fortune Furniture Ltd.	32.23
Gaomi Yatai Wooden Ware Co., Ltd., Team Prospect International Ltd., Money Gain International Co.	32.23

a minimum of 5 lined drawers lined with felt or felt-like material, at least one side door (whether or not the door is lined with felt or felt-like material), with necklace hangers, and a flip-top lid with inset mirror. *See* Issues and Decision Memorandum from Laurel LaCivita to Laurie Parkhill, Office Director, Concerning Jewelry Armoires and Cheval Mirrors in the Antidumping Duty Investigation of Wooden Bedroom Furniture from the People's Republic of China, dated August 31, 2004. *See also Wooden Bedroom Furniture from the People's Republic of China: Notice of Final Results of Changed Circumstances Review and Revocation in Part*, 71 FR 38621 (July 7, 2006).

[12] Cheval mirrors are any framed, tiltable mirror with a height in excess of 50'' that is mounted on a floor-standing, hinged base. Additionally, the scope of the order excludes combination cheval mirror/jewelry cabinets. The excluded merchandise is an integrated piece consisting of a cheval mirror, *i.e.*, a framed tiltable mirror with a height in excess of 50 inches, mounted on a floor-standing, hinged base, the cheval mirror serving as a door to a cabinet back that is integral to the structure of the mirror and which constitutes a jewelry cabinet lined with fabric, having necklace and bracelet hooks, mountings for rings and shelves, with or without a working lock and key to secure the contents of the jewelry cabinet back to the cheval mirror, and no drawers anywhere on the integrated piece. The fully assembled piece must be at least 50 inches in height, 14.5 inches in width, and 3 inches in depth. *See Wooden Bedroom Furniture From the People's Republic of China: Final Results of Changed Circumstances Review and Determination To Revoke Order in Part*, 72 FR 948 (January 9, 2007).

[13] Metal furniture parts and unfinished furniture parts made of wood products (as defined above) that are not otherwise specifically named in this scope (*i.e.*, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds) and that do not possess the essential character of wooden bedroom furniture in an unassembled, incomplete, or unfinished form. Such parts are usually classified under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheading 9403.90.7000.

[14] Upholstered beds that are completely upholstered, *i.e.*, containing filling material and completely covered in sewn genuine leather, synthetic leather, or natural or synthetic decorative fabric. To be excluded, the entire bed (headboards, footboards, and side rails) must be upholstered except for bed feet, which may be of wood, metal, or any other material and which are no more than nine inches in height from the floor. *See Wooden Bedroom Furniture from the People's Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part*, 72 FR 7013 (February 14, 2007).

[15] To be excluded the toy box must: 1) be wider than it is tall; (2) have dimensions within 16 - 27 inches in height, 15 - 18 inches in depth, and 21 - 30 inches in width; (3) have a hinged lid that encompasses the entire top of the box; (4) not incorporate any doors or drawers; (5) have slow-closing safety hinges; (6) have air vents; (7) have no locking mechanism; and (8) comply with American Society for Testing and Materials (ASTM) standard F963-03. Toy boxes are boxes generally designed for the purpose of storing children's items such as toys, books, and playthings. *See Wooden Bedroom Furniture from the People's Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part*, 74 FR 8506 (February 25, 2009).

WOODEN BEDROOM FURNITURE FROM THE PRC—Continued

Exporter	Weighted–Average Margin (Percent)
Guangming Group Wumahe Furniture Co., Ltd.	32.23
Inni Furniture	32.23
Mei Jia Ju Furniture Industrial (Shenzhen) Co. Ltd.[16]	216.01
Meikangchi (Nantong) Furniture Company Ltd.	32.23
Nanjing Nanmu Furniture Co., Ltd.	32.23
Po Ying Industrial Co.	32.23
Qingdao Beiyuan–Shengli Furniture Co., Ltd., Qingdao Beiyuan Industry Trading Co. Ltd.	32.23
Shenzhen Tiancheng Furniture Co., Ltd., Winbuild Industrial Ltd., Red Apple Furniture Co., Ltd. and Red Apple Trading Co., Ltd.	32.23
Shenyang Kunyu Wood Industry Co., Ltd.	32.23
Shenzhen Xingli Furniture Co., Ltd.	32.23
Tianjin First Wood Co., Ltd.	32.23
Union Friend International Trade Co., Ltd.	32.23
Winmost Enterprises Limited	32.23
Winny Overseas, Ltd.	32.23
Yangchen Hengli Co., Ltd.	32.23
Yichun Guangming Furniture Co., Ltd.	32.23
Zhong Cheng Furniture Co., Ltd.	32.23
PRC–Wide Rate[17]	216.01

[16] Mei Jia Ju Furniture Industrial (Shenzhen) Co. Ltd. is subject to the new shipper review, not the administrative review. Therefore, its dumping margin is unaffected by these second amended final results of the administrative review.
[17] The PRC-Wide Rate is unaffected by these second amended final results of the administrative review.

Notification of Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (''APOs'') of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Disclosure

We will disclose the calculations performed for these final results within five days of the date of publication of this notice to interested parties in accordance with 19 CFR 351.224(b).

Assessment Rate

The Department will determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries based on the second amended final results. For details on the assessment of antidumping duties on all appropriate entries, *see Final Results*.

Cash Deposit Requirements

The following cash deposit requirements, pursuant to 751(a)(2)(C) of the Act, will be effective retroactively on any entries made on or after August 20, 2008, the date of publication of the *Final Results*, for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date: (1) for the exporters listed above, the cash deposit rate will be the rates shown for those companies (except if the rate is *de minimis, i.e.*, less than 0.5 percent, a zero cash deposit will be required for that company); (2) for previously investigated or reviewed PRC and non–PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter–specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC–Wide rate of 216.01 percent; and (4) for all non–PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non–PRC exporter. These deposit requirements shall remain in effect until further notice.

These amended final results are published in accordance with sections 751(h) and 777(i)(1) of the Act.

Dated: March 20, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–6902 Filed 3–26–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Manufacturing Extension Partnership Advisory Board

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app., notice is hereby given that the Manufacturing Extension Partnership (MEP) Advisory Board, National Institute of Standards and Technology (NIST), will meet Sunday, April 19, 2009, from 8:30 a.m. to 4 p.m. This meeting is being held in conjunction with MEP's National Conference in Orlando, Florida. The MEP Advisory Board is composed of ten members appointed by the Director of NIST who were selected for their expertise in the area of industrial extension and their work on behalf of smaller manufacturers. The Board was

established to fill a need for advice and assessment on MEP's plans, strategies and performance. MEP is a unique program consisting of centers across the United States and Puerto Rico, with partnerships at the State, Federal, and local levels. The Board provides input and advice on MEP's programs, plans, and policies. At this meeting, the Board will address MEP's sustainability initiatives and efforts to deploy services into the U.S. manufacturing economy. The Board's agenda may include other Board business.

DATES: The meeting will convene April 19, 2009 at 8:30 a.m. and will adjourn at 4 p.m. on April 19, 2009.

ADDRESSES: The meeting will be held at Orlando World Center Marriott Resort & Convention Center, 8701 World Center Drive, Orlando, Florida 32821. Any interested person wishing to attend this meeting should submit his or her name, e-mail address and phone number to Susan Hayduk (*susan.hayduk@nist.gov*, (301) 975–5614) no later than c.o.b. April 9, 2009. Those who are unable to attend in person are invited to submit written statements to the MEP Advisory Board. Please send your statements to Karen Lellock at *karen.lellock@nist.gov*.

FOR FURTHER INFORMATION CONTACT: Karen Lellock, Manufacturing Extension Partnership, National Institute of Standards and Technology, Gaithersburg, Maryland 20899–4800, telephone number (301) 975–4269.

Dated: March 19, 2009.

Richard Kayser,

Chief Scientist.

[FR Doc. E9–6906 Filed 3–26–09; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–X036

Endangered Species; File No. 1547–02

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

ACTION: Notice; issuance of permit modification.

SUMMARY: Notice is hereby given that the New York State Department of Environmental Conservation (Kathryn Hattala, Principal Investigator), 21 South Putt Corners Road; New Paltz, NY 12561, has been issued a modification to scientific research Permit No. 1547–02.

ADDRESSES: The modification and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Northeast Region, NMFS, 55 Great Republic Drive, Gloucester, MA 01930; phone (978)281–9300; fax (978)281–9333;

FOR FURTHER INFORMATION CONTACT: Malcolm Mohead or Kate Swails, (301)713–2289.

SUPPLEMENTARY INFORMATION: On December 9, 2008, notice was published in the **Federal Register** (72 FR 74708) that a modification of Permit No. 1547–01, issued March 22, 2007 (72 FR 17135), had been requested by the above-named individual. The requested modification has been granted under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

In addition to all research activities authorized under Permit No. 1547–01, this modification authorizes anesthesia and gastric lavage on up to 200 shortnose sturgeon (*Acipenser brevirostrum*) in the Haverstraw and Newburgh Bays of the Hudson River. The researcher also is permitted one unintentional mortality of a shortnose sturgeon during the remaining permitted period. The goal of the additional research will be to document the diet of shortnose sturgeon occupying the same habitat as Atlantic sturgeon (*Acipenser oxyrhynchus oxyrhynchus*) in the lower Hudson River. This modification will be valid through the expiration date of the original permit, October 31, 2011.

Issuance of this modification, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of such endangered or threatened species, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: March 24, 2009.

Tammy C. Adams,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E9–6899 Filed 3–26–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XN99

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Application for an Exempted Fishing Permit

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

ACTION: Notice; receipt of exempted fishing permit applications; request for comments.

SUMMARY: NMFS announces the receipt of exempted fishing permit (EFP) applications, and is considering issuance of EFPs for vessels participating in the EFP fisheries. The EFPs are necessary to allow activities that are otherwise prohibited by Federal regulations. The EFPs will be effective no earlier than April 27, 2009, and would expire no later than December 31, 2009, but could be terminated earlier under terms and conditions of the EFPs and other applicable laws.

DATES: Comments must be received no later than 5 p.m., local time on April 27, 2009.

ADDRESSES: You may submit comments, identified by 0648–XN99 by any one of the following methods:

- Fax: 206–526–6736, Attn: Gretchen Arentzen.
- Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070, Attn: Gretchen Arentzen.

FOR FURTHER INFORMATION CONTACT: To view copies of the 2009 EFP applications, visit the Pacific Council website at *www.pcouncil.org* and browse the September 2008 Briefing Book; or contact Gretchen Arentzen (Northwest Region, NMFS), phone: 206–526–6147, fax: 206–526–6736.

SUPPLEMENTARY INFORMATION: This action is authorized by the Magnuson–Stevens Fishery Conservation and Management Act provisions at 50 CFR 600.745, which states that EFPs may be used to authorize fishing activities that would otherwise be prohibited. At the September 2008 Pacific Fishery Management Council (Council) meeting in Boise, Idaho, the Council considered applications for four EFPs from: (1) The Nature Conservancy and their collaborators; (2) the California Recreational Fishing Alliance and Golden Gate Fisherman's Association; (3) the Oregon Recreational Fishing

Alliance; and (4) Steven Fosmark. An opportunity for public testimony was provided during the Council meeting. For more details on these EFP applications and to view copies of the applications, see the Pacific Council's website at *www.pcouncil.org* and browse the September 2008 Briefing Book. The Council recommended that NMFS consider issuing the following EFPs.

Community Based Fishing Association EFP

The Nature Conservancy (TNC) submitted a proposal for a 2009 EFP, along with their collaborators: City of Morro Bay Harbor Department; Port San Luis Commercial Fishermen's Association; Port San Luis Harbor District; California Department of Fish and Game; Morro Bay Commercial Fishermen's Organization, Inc.; and Environmental Defense. The primary purpose of the EFP is to test whether establishing a cooperatively managed, community based fishing association can provide economic and environmental performance benefits.

Recreational Chilipepper EFP

The California Recreational Fishing Alliance (RFA) and the Golden Gate Fishermen's Association submitted an application for a 2009 EFP. The primary purpose of the EFP is to do an area–based recreational fishing study to test if hook and line fishing gear can be used to access underutilized chilipepper rockfish seaward of the non–trawl RCA, while keeping bycatch of overfished species low.

Recreational Yellowtail EFP

The Oregon RFA submitted an application for a 2009 EFP. The primary purpose of the EFP is to test if recreational fishing gear, fitted with a long leader to keep gear up off the ocean floor, can be used to access underutilized yellowtail rockfish, while keeping bycatch of overfished species low.

Commercial Chilipepper EFP

Steven Fosmark submitted an application for a 2009 EFP. The primary purpose of the EFP is to test if a specific longline gear configuration can be used in the commercial fishery to target underutilized chilipepper rockfish, while keeping bycatch of overfished species low.

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

Dated: March 23, 2009.

Alan D. Risenhoover,

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

[FR Doc. E9–6895 Filed 3–26–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Customer Panel Quality Survey

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), 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 this extension of a continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before May 26, 2009.

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

- *E-mail: Susan.Fawcett@uspto.gov.* Include ''0651–0057 Customer Panel Quality Survey comment'' in the subject line of the message.
- *Fax:* 571–273–0112, marked to the attention of Susan K. Fawcett.
- *Mail:* Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, Administrative Management Group, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- *Federal e-Rulemaking Portal*: *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Martin Rater, Management Analyst, Office of Patent Quality Assurance, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–5966; or by e-mail at *martin.rater@uspto.gov* with ''Paperwork'' in the subject line.

SUPPLEMENTARY INFORMATION:

I. Abstract

For over the past 10 years, the USPTO has used surveys to obtain customer feedback regarding the products, services, and related service standards of the USPTO. The USPTO used the data to measure how well the agency is meeting established customer service standards, to identify any disjoints between customer expectations and USPTO performance, and to develop improvement strategies. Typically, these surveys ask customers to express their satisfaction with the USPTO's products and services based upon their interactions with the agency as a whole over a 12-month period.

In order to obtain further data concerning customer ratings of the USPTO's services, service standards, and performance, the USPTO developed the Customer Panel Quality Survey. This survey narrows the focus of customer satisfaction to examination quality and uses a longitudinal, rotating panel design to assess changes in customer perceptions and to identify key areas for examiner training and opportunities for improvement. The USPTO plans to survey patent agents, attorneys, and other individuals from large domestic corporations (including those with 500+ employees), small and medium-size businesses, universities and other non-profit research organizations, and independent inventors; however, the USPTO does not plan to survey foreign entities.

The USPTO will draw a random sample of these customers from their database. Due to the rotating panel design, some sample members will be surveyed twice in order to measure change over a period of time. Each year of the survey will include four waves of data collection.

The Customer Panel Quality Survey is a mail survey, although respondents can also complete the survey electronically on the Web. The content of both versions will be identical. A survey packet containing the questionnaire, a separate cover letter prepared by the Commissioner of Patents, a postage-paid, pre-addressed return envelope, and instructions for completing the survey electronically will be mailed to all sample members. A pre-notification letter, reminder/thank you postcards, and telephone calls will be used to encourage response from sample members.

This is a voluntary survey and all responses will remain confidential. The collected data will not be linked to the respondent and contact information that is used for sampling purposes will be maintained in a separate file from the quantitative data. Respondents are not required to provide any identifying information such as their name, address, or Social Security Number. In order to access and complete the online survey, respondents will need to use the username, password, and survey ID number provided by the USPTO.

II. Method of Collection

By mail or electronically over the Internet if respondents choose to complete the survey online.

III. Data

OMB Number: 0651–0057.

Form Number(s): N/A.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households; business or other for profit; not-for-profit institutions; Federal Government; and state, local, or Tribal Government.

Estimated Number of Respondents: 3,168 responses per year. Out of a sample size of 2,842 for each wave of data collection, the USPTO estimates that 792 completed surveys will be received. Each year of the survey will include four waves of data collection with an estimated 3,168 completed surveys received. Of this total, the USPTO estimates that 70% or 2,218 surveys will be returned by mail and that 30% or 950 surveys will be completed using the online option.

Estimated Time per Response: The USPTO estimates that it takes approximately 10 minutes (0.17 hours) to complete either the paper or online version of this survey. This includes the time to gather the necessary information, complete the survey, and submit it to the USPTO.

Estimated Total Annual Respondent Burden Hours: 539 hours.

Estimated Total Annual Respondent Cost Burden: $167,090. The USPTO believes that patent attorneys will be responding to these surveys. Using the professional hourly rate of $310 for attorneys in private firms, the USPTO estimates that the total respondent cost burden for this collection is $167,090 per year.

Item	Estimated time for response	Estimated annual responses	Estimated annual burden hours
Customer Panel Quality Survey (paper)	10 minutes	2,218	377
Customer Panel Quality Survey (electronic)	10 minutes	950	162
Total		3,168	539

Estimated Total Annual Non-hour Respondent Cost Burden: $0. There are no capital start-up, maintenance, operation, or recordkeeping costs, nor are there any filing fees associated with this information collection. The USPTO covers the costs of all survey materials and provides postage-paid, pre-addressed return envelopes for the completed mail surveys.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Susan K. Fawcett,

Records Officer, USPTO, Office of the Chief Information Officer, Administrative Management Group.

[FR Doc. E9–6770 Filed 3–26–09; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Department of the Army

Army Educational Advisory Committee

AGENCY: Department of the Army, DoD.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Sunshine in the Government Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the following meeting notice is announced:

Name of Committee: U.S. Army War College Subcommittee of the Army Education Advisory Committee.

Date of Meeting: April 15, 2009 and April 16, 2009.

Place of Meeting: U.S. Army War College, 122 Forbes Avenue, Carlisle, PA, Command Conference Room, Root Hall, Carlisle Barracks, PA 17013.

Time of Meeting: 10:15 a.m.–4 p.m., 15 April 2009. 8 a.m.–11:45 p.m., 16 April 2009.

Proposed Agenda: Receive information briefings; conduct discussions with the Commandant and staff and faculty; attend the Commandant's Lecture Series and key note speaker focused on technology and strategy, examine College charter to the Board that recommends the curriculum subcommittee consider a gap analysis approach to its process and findings; assess an overview and proposed growth of the International Fellows program, assess the College's approach to provide academic support through a .mil domain and considerations for a .edu domain. Propose strategies and recommendations that will continue the momentum of Federal accreditation success and guarantee compliance with regional accreditation standards.

FOR FURTHER INFORMATION CONTACT: To request advance approval or obtain further information, contact Colonel Scott Horton at 717–245–3907.

SUPPLEMENTARY INFORMATION: This meeting is open to the public. Interested persons may submit a written statement for consideration by the U.S. Army War College Subcommittee. Written statements should be no longer than two type-written pages and must address: the issue, discussion, and a recommended course of action. Supporting documentation may also be included as needed to establish the appropriate historical context and to provide any necessary background information.

Individuals submitting a written statement must submit their statement to the Designated Federal Officer at U.S. Army War College, ATTN: Joint Education Office, 122 Forbes Avenue, Carlisle, PA 17013, at any point, however, if a written statement is not received at least 10 calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the U.S. Army War College Subcommittee until its next open meeting.

The Designated Federal Officer will review all timely submissions with the U.S. Army War College Subcommittee Chairperson, and ensure they are provided to members of the U.S. Army War College Subcommittee before the

meeting that is the subject of this notice. After reviewing the written comments, the Chairperson and the Designated Federal Officer may choose to invite the submitter of the comments to orally present their issue during an open portion of this meeting or at a future meeting.

The Designated Federal Officer, in consultation with the U.S. Army War College Subcommittee Chairperson, may, if desired, allot a specific amount of time for members of the public to present their issues for review and discussion by the U.S. Army War College Subcommittee.

Scott Horton,

Colonel, U.S. Army, Designated Federal Official.

[FR Doc. E9–6858 Filed 3–26–09; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army

Publication of Revision and Consolidation of Military Freight Traffic Rules Publications (MFTRP) 1C–R (Motor), 10 (Rail), 30 (Barge), 6A (Pipeline), 4A (Tank Truck), Military Standard Tender Instruction Publication (MSTIP) 364D, SpotBid Business Rules, and SDDC Military Class Rate Publication No. 100A to a Consolidation of Procurement Requirements for the Purchase of Commercial Transportation Services into the Military Freight Traffic Unified Rules Publication (MFTURP) No. 1

AGENCY: Department of the Army, DOD.

SUMMARY: The Military Surface Deployment and Distribution Command (SDDC) is providing notice that it intends to publish its consolidated procurement requirements of commercial transportation services publication, the MFTURP No. 1, which governs the purchase of surface freight transportation in the Continental United States (CONUS) by DOD using Federal Acquisition Regulation (FAR) exempt transportation service contracts.

The purpose for this new procurement procedure is to streamline the transportation requirements to reflect the current needs of the DOD. SDDC will accept comments—geared towards strengthening the DOD's procurement contracts for commercial transportation—to be utilized during quarterly updates of this publication.

DATES: Comments must be received by April 27, 2009.

ADDRESSES: Submit comments to Publication and Rules Manager, Strategic Business Directorate, Business Services, 661 Sheppard Place, ATTN: SDDC–OPM, Fort Eustis, VA 23604–1644. Request for additional information may be sent by e-mail to: *dora.elias1@us.army.mil*.

FOR FURTHER INFORMATION CONTACT: Ms. Dora J. Elias, (757) 878–5379.

SUPPLEMENTARY INFORMATION:

Reference: Military Freight Traffic Rules Publications (MFTRP) 1C–R (Motor), 10 (Rail), 30 (Barge), 6A (Pipeline), 4A (Tank Truck), Military Standard Tender Instruction Publication (MSTIP) 364D, SpotBid Business Rules, and SDDC Military Class Rate Publication No. 100A.

Background: SDDC's various rules publications have gone through many revisions and updates since its inception. With various subject matter owners within SDDC being responsible for the publication, attempts to update the publications proved cumbersome. To make the update and revision process more efficient, SDDC has consolidated its rules publications into one document that is applicable to all surface modes. This also places the responsibility of maintaining the publication with one Publications Team.

The current procurement procedures were developed during a period of extensive economic regulation of the various transportation modes. The purpose behind the consolidation, revision, and change to these various modal procurement documents was to ensure the procurement procedures reflect the current transportation needs of the DOD as well as the state of the commercial transportation industry. It also streamlines documentation and procedures, as well as standardizes procurement terms as much as possible between the various transportation modes.

Miscellaneous:

- This publication, as well as the other SDDC publications, can be accessed via the SDDC Web site at: *http://www.sddc.army.mil/Public/Global%20Cargo%20Distribution/Domestic/Publications/*.
- Submit comments, in writing, to SDDC via e-mail at *dora.elias1@us.army.mil* or mail to Publication and Rules Manager, Business Services, Strategic Business Directorate (see **ADDRESSES**).
- Deadline for comments is April 27, 2009.

C.E. Radford, III,

Division Chief, G9, Strategic Business Directorate.

[FR Doc. E9–6866 Filed 3–26–09; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for the Morehead City Harbor Project, Dredged Material Management Plan, Carteret County, NC

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The Wilmington District, U.S. Army Corps of Engineers (USACE) is conducting a study to evaluate the long-term (20-year) dredged material placement needs and opportunities for Morehead City Harbor, NC. The study area encompasses Morehead City Harbor and the Ocean Bar approach channels extending seaward to deep water through Beaufort Inlet in Carteret County, near Morehead City, NC. The study will include the preparation of an integrated (combined) Dredged Material Management Plan (DMMP) and Draft Environmental Impact Statement (DEIS) and will identify, evaluate, screen, prioritize, and ultimately optimize placement alternatives resulting in the recommendation of a plan for the placement of dredged materials for at least the next 20 years.

FOR FURTHER INFORMATION CONTACT: Questions regarding the DMMP and DEIS should be directed to: Mr. Stacy Samuelson; Environmental Resources Section; U.S. Army Engineer District, Wilmington; 69 Darlington Avenue; Wilmington, NC 28402–1890; telephone: (910) 251–4480.

SUPPLEMENTARY INFORMATION: The USACE, Engineering Regulation (ER) 1105–2–100 mandates that the Corps Districts develop DMMPs for all Federal navigation projects where there is an indication of insufficient capacity to accommodate maintenance dredging for the next 20 years. The ER further requires that the Districts consider options that provide opportunities for beneficial uses of dredged material.

Pursuant to the National Environmental Policy Act of 1969, as amended, options for dredged material management will be based on an evaluation of the probable impact of the proposed activity on the public interest. The decision will reflect the national concern for the protection and utilization of important resources. The benefit, which may reasonably be expected to accrue from the proposal, will be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be

considered, including wetlands; fish and wildlife resources; cultural resources; land use; water and air quality; hazardous, toxic, and radioactive substances; threatened and endangered species; regional geology; aesthetics; environmental justice; and the general needs and welfare of the public.

The alternatives currently being considered for the DMMP include, but are not limited to: offshore disposal in the Environmental Protection Agency designated Ocean Dredged Material Disposal Site (ODMDS), nearshore disposal on the ebb tide delta, beach disposal, and upland disposal at Brandt Island. Additional beneficial uses of dredged material will also be investigated for the DMMP. The DEIS will address environmental effects of reasonable alternatives.

All private parties and Federal, State, and local agencies having an interest in the study are hereby notified of the intent to prepare a DEIS and are invited to comment at this time. A scoping letter was mailed to a standard mailing list November 26, 2007 and all comments received as a result of the scoping letter and this notice of intent will be considered in the preparation of the DMMP and DEIS.

The lead agency for this project is the U.S. Army Engineer District, Wilmington. Cooperating agency status has not be assigned to, nor requested by, any other agency.

The DEIS is being prepared in accordance with the requirements of the National Environmental Policy Act of 1969, as amended, and will address the relationship of the proposed action to all other applicable Federal and State Laws and Executive Orders.

The DMMP and DEIS is currently scheduled to be available in July 2010.

Dated: March 17, 2009.

Jefferson M. Ryscavage,

Colonel, EN, Commanding.

[FR Doc. E9–6855 Filed 3–26–09; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army; Army Corps of Engineers

Notice of Intent To Prepare an Environmental Impact Statement/ Environmental Impact Report for Natomas Levee Improvement Program Phase 4a Landside Improvements Project, Sacramento, CA

AGENCY: Department of the Army, U.S. Army Corps of Engineers; DoD.

ACTION: Notice of intent.

SUMMARY: The action being taken is preparation of an environmental impact statement/environmental impact report (EIS/EIR) for the Natomas Levee Improvement Program (NLIP) Phase 4a Landside Improvements Project (Phase 4a Project). The Corps is considering a request to issue both 408 permission to the Central Valley Flood Protection Board and 404 permit to Sacramento Area Flood Control Agency (SAFCA) for work on the NLIP. Under 33 U.S.C. 408, the Chief of Engineers may grant permission to alter an existing Federal project if it is not injurious to the public interest and does not impair the usefulness of the project. Under Section 404 of the Clean Water Act, the District Engineer permits the discharge of dredged or fill material into waters of the United States if the discharge meets the requirements of the Environmental Protection Agency's 404(b)(1) guidelines and is not contrary to the public interest. The NLIP is located in Sacramento and Sutter Counties, CA. The 408 permission is required for structural improvements to the Sacramento River east levee and the Natomas Cross Canal south levee. A 404 permit is needed for dredge and discharge of fill materials into waters of the United States resulting from levee improvements, relocation of the Riverside Canal, and development of associated habitat.

DATES: A public scoping meeting will be held on April 13, 2009 from 4:30 p.m. until 6:30 p.m. at South Natomas Community Center, Activity Room (see **ADDRESSES**). Send written comments by April 27, 2009 to (see **ADDRESSES**).

ADDRESSES: Public Scoping Meeting, South Natomas Community Center, Activity Room, 2921 Truxel Road, Sacramento, CA. Send written comments and suggestions concerning this study to Ms. Elizabeth Holland, U.S. Army Corps of Engineers, Sacramento District, Attn: Planning Division (CESPK–PD–R), 1325 J Street, Sacramento, CA 95814–2922. Requests to be placed on the mailing list should also be sent to this address.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and EIS/EIR should be addressed to Ms. Elizabeth Holland at (916) 557–6763, e-mail *Elizabeth.g.holland@usace.army.mil* or by mail (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION:

1. Proposed Action. The U.S. Army Corps of Engineers is preparing an EIS/EIR to analyze the impacts of the work proposed by SAFCA to implement the NLIP Phase 4a Project. The overall purpose of the NLIP is to bring the entire 42-mile Natomas Basin perimeter levee system into compliance with applicable Federal and state standards for levees protecting urban areas. The NLIP Phase 4a Project is a component of the NLIP proposed by SAFCA to improve a portion of the Natomas Basin's perimeter levee system in Sacramento and Sutter Counties, CA.

2. Alternatives. The EIS/EIR will address an array of flood damage reduction alternatives. Alternatives analyzed during the investigation will consist of a combination of one or more flood risk reduction measures. These measures include strengthening the existing levee in place, constructing seepage berms, constructing adjacent setback levees, installing relief wells and cutoff walls, and relocating irrigation ditches.

3. Scoping Process. a. A public scoping meeting will be held on April 13, 2009 to present information to the public and to receive comments from the public. This meeting will begin a process to involve concerned individuals, and local, State, and Federal agencies with the Phase 4a Project.

b. Significant issues to be analyzed in depth in the EIS/EIR include effects on agricultural resources, land use, geology and soils, hydrology and hydraulics, water quality, biological resources (including fisheries, vegetation and wildlife resources, special-status species, and wetlands and other waters of the U.S.), cultural resources, paleontological resources, transportation and circulation, air quality, noise, visual resources, utilities and service systems, hazards and hazardous materials, socioeconomics and population and housing, and environmental justice. The EIS/EIR will also evaluate the cumulative effects of the proposed NLIP (including the past and anticipated future NLIP project phases) and other related projects in the study area.

c. The Corps is consulting with the State Historic Preservation Officer to comply with the National Historic Preservation Act, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service to provide a Biological Opinion, and the U.S. Fish and Wildlife Service to provide a Fish and Wildlife Coordination Act Report.

d. A 45-day public review period will be provided for individuals and agencies to review and comment on the draft EIS/EIR. All interested parties are encouraged to respond to this notice and provide a current address if they

wish to be notified of the draft EIS/EIR circulation.

4. Availability. The draft EIS/EIR is scheduled to be available for public review and comment in early summer 2009.

Dated: March 16, 2009.

Thomas Chapman,

COL, EN, Commanding.

[FR Doc. E9–6862 Filed 3–26–09; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 27, 2009.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: March 24, 2009.

Angela C. Arrington,

Director, IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.

Title: Impact Evaluation of Response to Intervention Strategies (Site Recruitment).

Frequency: On occassion.

Affected Public: State, local or tribal gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 505.

Burden Hours: 1,510.

Abstract: The Impact Evaluation of Response to Intervention (RtI) strategies will inform the National Assessment of IDEA 2004, and the choices of districts and schools, by estimating the differential impacts of strategies for providing Tier 2 reading instruction to at-risk first and second graders. ED has awarded a contract to MDRC (in partnership with SRI International and Survey Research Management) to conduct this study in 150 elementary schools. This initial collection involves the site recruitment. The resulting RtI project will provide information that policymakers and school administrators can use to help identify students with learning disabilities and improve instruction provided to at-risk students.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov*, by selecting the ''*Browse Pending Collections*'' link and by clicking on link number 3932. When you access the information collection, click on ''*Download Attachments* '' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E9–6885 Filed 3–26–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Idaho National Laboratory

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Idaho National Laboratory. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Tuesday, April 7, 2009, 8 a.m.–5 p.m.

Opportunities for public participation will be held on Tuesday, April 7, 2009, from 1:30 p.m. to 1:45 p.m. and from 3:30 p.m. to 3:45 p.m.

These times are subject to change; please contact the Federal Coordinator (below) for confirmation of times prior to the meeting.

ADDRESSES: Red Lion Hotel Canyon Springs, 1357 Blue Lakes Boulevard, Twin Falls, Idaho 83301.

FOR FURTHER INFORMATION CONTACT: Robert L. Pence, Federal Coordinator, Department of Energy, Idaho Operations Office, 1955 Fremont Avenue, MS–1203, Idaho Falls, ID 83415. Phone (208) 526–6518; Fax (208) 526–8789 or e-mail: *pencerl@id.doe.gov* or visit the Board's Internet home page at: *http://www.inlemcab.org*.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Topics (agenda topics may change up to the day of the meeting; please contact Robert L. Pence for the most current agenda):

- Progress to Cleanup.
- Fiscal Year 2011 Budget.
- Offsite Transuranic Waste.
- New Buried Waste Approach.
- March EM SSAB Chairs Meeting Report.

Public Participation: The meeting is open to the public. The EM SSAB, Idaho National Laboratory, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Robert L. Pence at least seven days in advance of the meeting at the phone number listed above. Written

statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact Robert L. Pence at the address or telephone number listed above. The request must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments. This notice is being published less than 15 days prior to the meeting date due to programmatic issues that had to be resolved prior to the meeting date.

Minutes: Minutes will be available by writing or calling Robert L. Pence, Federal Coordinator, at the address and phone number listed above. Minutes will also be available at the following Web site: *http://www.inlemcab.org/meetings.html*.

Issued at Washington, DC on March 24, 2009.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E9–6877 Filed 3–26–09; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Advisory Board Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Advisory Board (EMAB). The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, April 29, 2009, 9 a.m.–5 p.m.

ADDRESSES: The Crystal City Marriott at Reagan National Airport, 1999 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Terri Lamb, Designated Federal Officer, EMAB (EM–13), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Phone (202) 586–9007; fax (202) 586–0293 or e-mail: *terri.lamb@em.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of EMAB is to provide the Assistant Secretary for Environmental Management (EM) with advice and recommendations on corporate issues confronting the EM program. EMAB will contribute to the effective operation of the program by providing individual citizens and representatives of interested groups an opportunity to present their views on issues facing EM and by helping to secure consensus recommendations on those issues.

Tentative Agenda Topics:

- EM Program Update.
- Strategic Initiatives.
- Acquisition and Project Management.
- EM Human Capital Initiatives.
- Communications.

Public Participation: The meeting is open to the public. EMAB welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Terri Lamb at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to the agenda should contact Terri Lamb at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Terri Lamb at the address or phone number listed above. Minutes will also be available at the following Web site *http://www.em.doe.gov/stakepages/emabmeetings.aspx.*

Issued at Washington, DC on March 24, 2009.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E9–6879 Filed 3–26–09; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Science; High Energy Physics Advisory Panel

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the High Energy Physics Advisory Panel (HEPAP). Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, May 21, 2009; 9 a.m. to 6 p.m. and

Friday, May 22, 2009; 8:30 a.m. to 4 p.m.

ADDRESSES: Hotel Palomar, 2121 P St, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: John Kogut, Executive Secretary; High Energy Physics Advisory Panel; U.S. Department of Energy; SC–25/Germantown Building, 1000 Independence Avenue, SW., Washington, DC 20585–1290; Telephone: 301–903–1298.

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative Agenda: Agenda will include discussions of the following:

Thursday, May 21, 2009, and Friday, May 22, 2009

- Discussion of Department of Energy High Energy Physics Program.
- Discussion of National Science Foundation Elementary Particle Physics Program.
- Reports on and Discussions of Topics of General Interest in High Energy Physics.
- Public Comment (10-minute rule).

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Panel, you may do so either before or after the meeting. If you would like to make oral statements regarding any of these items on the agenda, you should contact John Kogut, 301–903–1298 or *John.Kogut@science.doe.gov* (e-mail). You must make your request for an oral statement at least 5 business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Panel will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of the meeting will be available for public review and copying within 90 days on the High Energy Physics Advisory Panel Web site. Minutes will also be available by writing or calling John Kogut at the address and phone number listed above.

Issued at Washington, DC on March 24, 2009.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E9–6880 Filed 3–26–09; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13249–001]

North Eden Hydro, LLC; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

March 23, 2009.

a. *Type of Filing:* Notice of intent to file license application and request to use the traditional licensing process.

b. *Project No.:* 13249–001.

c. *Date Filed:* January 22, 2009.

d. *Submitted by:* North Eden Hydro, LLC.

e. *Name of Project:* North Eden Pumped Storage Hydroelectric Project.

f. *Location:* The project would be located in North Eden Canyon on the eastern side of Bear Lake in Rich County, Utah. The project would not occupy any Federal lands.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Brent Smith, Symbiotics, LLC, P.O. Box 535, Rigby, ID 83442; (208) 745–0834; *brent.smith@symbioticsenergy.com*.

i. *FERC Contact:* Steve Hocking, (202) 502–8753 or by e-mail at *steve.hocking@ferc.gov*.

j. North Eden Hydro, LLC filed its request to use the Traditional Licensing Process on January 22, 2009. North Eden Hydro, LLC issued a public notice of its request on January 7, 2009. In a letter dated March 23, 2009, the Director of the Office of Energy Projects approved North Eden Hydro, LLC's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; and (b) the Utah State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. North Eden Hydro, LLC filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

m. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov*, or toll-free at (866) 208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

n. Register online at *http://ferc.gov/esubscribenow.htm* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–6874 Filed 3–26–09; 8:45 am]

BILLING CODE

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL09–42–000]

Dartmouth Power Associates, Limited Partnership, Complainant v. ISO New England Inc., Respondent; Notice of Complaint

March 20, 2009.

Take notice that on March 20, 2009, pursuant to section 206 of the Rules and Practice and Procedure, 18 CFR 385.206, Dartmouth Power Associates Limited Partnership (Complainant) filed a formal complaint against ISO New England Inc. (Respondent) as an appeal of the Respondent's denial of Complainant's Requested Billing Adjustment on February 20, 2009, which relates to the Respondent's revocation of Complainant's June 2008 Installed Capacity Payments.

The Complainant certifies that a copy of the complaint has been served on the Respondent.

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 April 9, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–6868 Filed 3–26–09; 8:45 am]

BILLING CODE

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2801–027]

Littleville Power Company, Inc.; Notice of Availability of Environmental Assessment

March 23, 2009.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for a subsequent license for the 1.14-megawatt Glendale Hydroelectric Project, located on the Housatonic River, in the Town of Stockbridge, Berkshire County, Massachusetts, and has prepared an Environmental Assessment (EA). In the EA, Commission staff analyze the potential environmental effects of relicensing the project and conclude that issuing a subsequent license for the project, with appropriate environmental

measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

A copy of the EA is on file with the Commission and is available for public inspection. The EA may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access documents. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Comments on the EA should be filed within 30 days from the issuance date of this notice, and should be addressed to the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1–A, Washington, DC 20426. Please affix ''Glendale Project No. 2801–027'' to all comments. Comments may be filed electronically via Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''eFiling'' link. For further information, contact Kristen Murphy at (202) 502–6236.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–6872 Filed 3–26–09; 8:45 am]

BILLING CODE

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2232–522]

Duke Power Company, LLC; North Carolina and South Carolina; Notice of Public Meetings for the Catawba-Wateree Hydroelectric Project Draft Environmental Impact Statement

March 20, 2009.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for license for the Catawba-Wateree Hydroelectric Project (FERC No. 2232), located on the Catawba River in the counties of Burke, McDowell, Caldwell, Catawba, Alexander, Iredell, Mecklenburg, Lincoln, and Gaston in North Carolina, and the counties of York, Lancaster, Chester, Fairfield, and Kershaw in South Carolina, and has prepared a Draft Environmental Impact Statement (draft EIS) for the project.

In addition to, or in lieu of, sending written comments, all interested individuals, organizations, and agencies are invited to attend one or more of the meetings. The agency meeting will focus on resource agency and non-governmental organization (NGO) concerns, while the evening meetings are primarily for public input. The time and location of the meetings are as follows:

Evening Meeting

Date: Tuesday, April 21, 2009.
Time: 7 p.m.–9 p.m. (EST).
Place: Charles Mack Citizens Center (Town of Mooresville Citizen Center).
Address: 215 North Main St., Mooresville, NC. 704–662–3334.

Daytime Meeting

Date: Wednesday, April 22, 2009.
Time: 9 a.m.–4 p.m. (EST).
Place: Baxter Hood Center (York Technical College).
Address: 452 S. Anderson Rd., Rock Hill, SC. 803–981–7100.

Evening Meeting

Date: Wednesday, April 22, 2009.
Time: 7 p.m.–9 p.m. (EST).
Place: Baxter Hood Center (York Technical College).
Address: 452 S. Anderson Rd., Rock Hill, SC. 803–981–7100.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and to discuss their comments on staff's recommendations included in the draft EIS. At these meetings, resource agency personnel and other interested persons will have the opportunity to provide oral and written comments and recommendations regarding the draft EIS. The meeting will be recorded by a court reporter, and all statements (verbal and written) will become part of the Commission's public record for the project. This meeting is posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Written comments should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, 20426. All comments must be filed by May 8, 2009, and should reference Project No. 2232–522. Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and instructions on the Commission's Web site at *http://www.ferc.gov* under the eLibrary link.

Copies of the draft EIS were distributed to the parties on the Commission's mailing list. Electronic copies of the draft EIS on CD will be available at the meetings. The draft EIS contains staff's evaluation of the applicant's proposal and the alternatives for relicensing the Catawba-Wateree Project. A copy of the draft EIS is also available for review in the Commission's Public Reference Branch, Room 2A, located at 888 First Street, NE., Washington, DC 20426. The draft EIS also may be viewed on the Commission's Web site at *http://www.ferc.gov* under the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

For further information, contact Sean Murphy at (202) 502–6145, or at *sean.murphy@ferc.gov*.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–6867 Filed 3–26–09; 8:45 am]

BILLING CODE

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL09–40–000]

Southwest Power Pool, Inc.; Notice of Initiation of Proceeding and Refund Effective Date

March 20, 2009.

On March 19, 2009, the Commission issued an order that initiated a proceeding in Docket No. EL09–40–000, pursuant to section 206 of the Federal Power Act (FPS), 16 U.S.C. 824e (2005), to determine the justness and

reasonableness of certain language in section 2.2 of Southwest Power Pool, Inc's. existing Open Access Transmission Tariff.

The refund effective date in Docket No. EL09–40–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–6870 Filed 3–26–09; 8:45 am]

BILLING CODE

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Ferc Staff Attendance at Southwest Power Pool's Synergistic Planning Project Team and Cost Allocation Working Group Meetings

March 20, 2009.

The Federal Energy Regulatory Commission hereby gives notice that members of its staff may attend the meetings of the Southwest Power Pool (SPP) Synergistic Planning Project Team and the SPP Cost Allocation Working Group, as noted below. Their attendance is part of the Commission's ongoing outreach efforts.

SPP Synergistic Planning Project Team Meeting: March 31, 2009 (10 a.m.–3 p.m.), Embassy Suites Outdoor World, 2401 Bass Pro Drive, Grapevine, TX 76051, 972–724–2600.

SPP Cost Allocation Working Group Meeting: April 1, 2009 (10 a.m.–4 p.m.), Embassy Suites Outdoor World, 2401 Bass Pro Drive, Grapevine, TX 76051, 972–724–2600.

The discussions may address matters at issue in the following proceedings:

Docket No. ER06–451, Southwest Power Pool, Inc.,
Docket Nos. ER07–319 and EL07–73, Southwest Power Pool, Inc.,
Docket No. ER07–371, Southwest Power Pool, Inc.,
Docket No. ER07–1255, Southwest Power Pool, Inc.,
Docket No. ER07–1206, Southwest Power Pool, Inc.,
Docket No. ER08–923, Southwest Power Pool, Inc.,
Docket No. ER08–1307, Southwest Power Pool, Inc.,
Docket No. ER08–1308, Southwest Power Pool, Inc.,
Docket No. ER08–1357, Southwest Power Pool, Inc.,
Docket No. ER08–1358, Southwest Power Pool, Inc.,
Docket No. ER08–1419, Southwest Power Pool, Inc.,
Docket No. ER08–1516, Southwest Power Pool, Inc.,
Docket No. ER09–35, Tallgrass Transmission LLC,
Docket No. ER09–36, Prairie Wind Transmission LLC,
Docket No. ER09–262, Southwest Power Pool, Inc.,
Docket No. ER09–342, Southwest Power Pool, Inc.,
Docket No. ER09–548, ITC Great Plains LLC,
Docket No. ER09–574, Southwest Power Pool, Inc.,
Docket No. ER09–575, Southwest Power Pool, Inc.,
Docket No. ER09–639, Southwest Power Pool, Inc.,
Docket No. ER09–714, Southwest Power Pool, Inc.,
Docket No. ER09–715, Southwest Power Pool, Inc.,
Docket No. ER09–748, Southwest Power Pool, Inc.,
Docket No. ER09–758, Southwest Power Pool, Inc.,
Docket No. ER09–778, Southwest Power Pool, Inc.,
Docket No. ER09–659, Southwest Power Pool, Inc.,
Docket No. ER09–681, Green Power Express LP,
Docket No. OA08–5, Southwest Power Pool, Inc.,
Docket No. OA08–60, Southwest Power Pool, Inc.,
Docket No. OA08–61, Southwest Power Pool, Inc.,
Docket No. OA08–104, Southwest Power Pool, Inc.

These meetings are open to the public.

For more information, contact Patrick Clarey, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (317) 249–5937 or *patrick.clarey@ferc.gov*.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–6869 Filed 3–26–09; 8:45 am]

BILLING CODE

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER06–615–038; ER08–1113–000]

California Independent System Operator Corporation; Notice Regarding Answer Period

March 23, 2009.

On March 18, 2009, Modesto Irrigation District, Transmission Agency of Northern California, City of Redding, California, Sacramento Municipal Utility District, and the Turlock Irrigation District (Affected IBAA Entities) filed an Emergency Motion for Clarification and Requested for Shortened Response Time in the above-referenced proceeding. In their filing, the Affected IBAA Entities request a shortening of the date for filing a response to the motion, given the urgency of the clarification request. By this notice, the date for filing answers to the Affected IBAA Entities' motion for clarification shall be March 24, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–6873 Filed 3–26–09; 8:45 am]

BILLING CODE

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP03–302–005; Docket No. CP04–345–003]

Cheyenne Plains Gas Pipeline Company, LLC; Notice of Updated Cost and Revenue Study

March 23, 2009.

Take notice that on March 9, 2009, Cheyenne Plains Gas Pipeline Company, LLC (Cheyenne Plains) filed an updated cost and revenue study in response to the Commission's January 30, 2009 data request.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing 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. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests 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 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 Thursday, April 2, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–6875 Filed 3–26–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Post-2009 Resource Pool—Loveland Area Projects—Proposed Power Allocation

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Proposed Power Allocation.

SUMMARY: Western Area Power Administration (Western), a Federal power marketing agency of the Department of Energy, announces its Post-2009 Resource Pool—Loveland Area Projects—Proposed Power Allocation developed under the requirements of subpart C—Power Marketing Initiative of the Energy Planning and Management Program (Program) Final Rule, 10 CFR part 905.

Western's Notice of Allocation Procedures and Call for Applications was published in the **Federal Register** at 73 FR 62981 on October 22, 2008. Applications were accepted at Western's Rocky Mountain Customer Service Region until 4 p.m. MST, December 19, 2008. Review of those applications resulted in this Notice of Proposed Power Allocation.

DATES: The comment period on this Notice of Proposed Power Allocation begins today and ends April 27, 2009. To be assured of consideration, Western must receive all written comments by the end of the comment period. Western will hold a single public comment forum about the Proposed Power Allocation on April 16, 2009, at 1 p.m. MDT; see address below.

ADDRESSES: Send written comments to: Regional Manager, Rocky Mountain Customer Service Region, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, CO 80538–8986. Comments may be delivered by certified mail, commercial mail, e-mail *POST2009LAP@wapa.gov*, or fax 970–461–7204.

Information about the Post-2009 Resource Pool Allocation Procedures, including comments, letters, and other supporting documents, is available for public inspection and copying at the Rocky Mountain Customer Service Region office, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, CO 80538–8986.

A single public comment forum (not to exceed 3 hours) on the Proposed Power Allocation will be held on April 16, 2009, at 1 p.m. MDT, at the Ramada Plaza Hotel & Convention Center, 10 East 120th Avenue, Northglenn, CO 80233.

FOR FURTHER INFORMATION CONTACT: Susan Steshyn, Public Utilities Specialist, 970–461–7237, or Melanie Reed, Contracts and Energy Services Manager, 970–461–7229. Written requests for information should be sent to Rocky Mountain Customer Service Region, Western Area Power Administration, Attn: J6200, P.O. Box 3700, Loveland, CO 80539–3003.

SUPPLEMENTARY INFORMATION: Western published the Post-2009 Resource Pool—Loveland Area Projects—Allocation Procedures and Call for Applications (73 *FR* 62981) on October 22, 2008, to implement subpart C-Power Marketing Initiative of the Program's Final Rule, 10 CFR part 905, published at 60 FR 5415, October 29, 1995. The Program, developed in part to implement section 114 of the Energy Policy Act of 1992, became effective on November 20, 1995. The Program establishes project-specific power resource pools and the allocation of power from these pools to new preference customers. The allocation procedures, in conjunction with the General Power Marketing and Allocation Criteria (51 *FR* 4012, January 31, 1986), establish the framework for allocating power from the Loveland Area Projects (LAP) resource pool. Only comments relevant to the Proposed Power Allocation will be accepted during the comment period. After considering public comments, Western will publish the Final Power Allocation in the **Federal Register**.

Written comments on the Proposed Power Allocation must be received at the address above by 4 p.m. MDT on April 27, 2009. Western will respond only to comments received on the Proposed Power Allocation and publish the Final Power Allocation after the end of the comment period.

I. Post-2009 Pool Resources

Western will allocate up to 1 percent (1%) of the LAP long-term hydroelectric resource available as of October 1, 2009. Approximately 6.9 megawatts (MW) of capacity and 11.3 gigawatt-hours (GWh) of energy will be available for the summer season. Winter availability will be approximately 6.1 MW of capacity and 9.1 GWh of energy. This resource pool will be created by reducing existing customers' allocations by up to 1%.

II. Proposed Power Allocation

In response to the call for applications, Western received four applications for the Post-2009 LAP resource pool. The total amount of energy requested by the applicants was 65.6 GWh. The resource pool will be allocated proportionately by season based on average seasonal loads for the period April 2007 through March 2008. The resource pool for capacity will be allocated proportionately by season based on average seasonal demand. The allocations below are subject to the minimum (100 kilowatts) and maximum (5,000 kilowatts) allocation criteria. The proposed allocations for the four qualified allottees are shown in the table below.

Allottees	Proposed post-2009 power allocation			
	Summer kilowatthours	Winter kilowatthours	Summer kilowatts	Winter kilowatts
City of Arma, KS	529,330	408,687	324	272
City of Cimarron, KS	1,142,083	1,066,248	698	709
City of Russell, KS	7,600,131	6,231,356	4,645	4,141
University of Wyoming	2,030,893	1,399,859	1,241	931
Total Resource Pool	11,302,437	9,106,150	6,908	6,053

Allottees must be able to obtain delivery of their allocations. A letter of commitment from each allottee's serving utility or transmission provider confirming that the allottee will receive the benefit of Western's Proposed Power Allocation must be received by May 11, 2009. If a copy of the letter is not received by the date above, Western may redistribute the allottee's portion of the resource pool to those allottees that remain. Western may extend this deadline for receiving a letter of commitment if a written request to do so is received by Western by the deadline.

The proposed allocations shown in the table above are based on the LAP marketable resource currently available. If the LAP marketable resource is adjusted in the future, all allocations may be adjusted accordingly.

III. Review Under the Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520, Western received approval from the Office of Management and Budget (OMB) to collect the Applicant Profile Data under control number 1910–5136, which was used to develop this Proposed Power Allocation.

IV. Review Under the National Environmental Policy Act

Western completed an environmental impact statement on the Program, pursuant to the National Environmental Policy Act of 1969 (NEPA). The Record of Decision was published in the **Federal Register**, 60 FR 53181, October 12, 1995. Western will comply with any additional NEPA requirements for this resource pool.

Dated: March 20, 2009.

Timothy J. Meeks,

Administrator.

[FR Doc. E9–6882 Filed 3–26–09; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8591–8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)© of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 6, 2008 (73 FR 19833).

Draft EISs

EIS No. 20080528, ERP No. D–USN–L10006–00, Northwest Training Range Complex (NWTRC), To Support and Conduct Current, Emerging, and Future Training and Research, Development, Test and Evaluation (RDT&E) Activities, WA, OR and CA.

Summary: EPA expressed environmental concerns about impacts to marine resources. Rating EC2.

EIS No. 20080533, ERP No. D–AFS–K65351–CA, Plumas National Forest Public Motorized Travel Management, Implementation, Plumas National Forest, Plumas County, CA.

Summary: EPA expressed environmental concerns about the scope of the travel management planning process, and potential impacts from the designation of the Sly Creek open area and associated routes to soil and water resources. The Final EIS should address seasonal closures, monitoring, and enforcement commitments. Rating EC2.

EIS No. 20090028, ERP No. D–NPS–F65073–IN, Indiana Dunes National Lakeshore, Draft White-Tailed Deer Management Plan, Implementation, Lake, Porter, LaPorte Counties, IN.

Summary: The preferred alternative provides a balanced combination of methods to manage deer and natural resources. EPA does not object to this project. Rating LO.

Final EISs

EIS No. 20080347, ERP No. F–COE–D30005–MD, Atlantic Coast of Maryland Shoreline Protection Project, Proposed Dredging of Several New Offshore Shoals to Provide Sand for Borrow Sources from 2010 to 2044, Ocean City, Worcester County, MD.

Summary: EPA does not object to the proposed action.

EIS No. 20080378, ERP No. F–COE–D39028–00, Mid-Chesapeake Bay Island Ecosystem Restoration Integrated Feasibility Study, Using Uncontaminated Dredged Material from the Upper Chesapeake Bay Approach Channels to the Port of Baltimore to Restore and Protect Island Habitat in the Middle Portion of Chesapeake Bay, Dorchester County, MD.

Summary: EPA does not object to the proposed project.

EIS No. 20080509, ERP No. F–IBR–J39037–ND, Northwest Area Water Supply Project, To Construct a Biota Water Treatment Plant, Lake Sakakawea, Missouri River Basin to Hudson Bay Basin, Divide, Williams, Burke, Renville, Bottineau, Pierce, McHenry, Ward, Mountrail and McLean Counties, ND.

Summary: EPA noted that the preferred alternative incorporates earlier EPA recommendations regarding UV treatment technology and the need for a template for the adaptive management plan. EPA made additional comments regarding the water quality analysis.

EIS No. 20090036, ERP No. F–AFS–F65069–MN, Glacier Project, To Maintain and Promote Native Vegetation, Communities that are Diverse, Productive, Healthy, Implementation, Superior National Forest, Kawishiwi Ranger District, St. Louis and Lake Counties, MN.

Summary: The Final EIS addressed EPA's earlier question regarding the projected amount of suitable habitat for the Northern goshawk; therefore, EPA does not object to the proposed project.

Dated: March 24, 2009.

Ken Mittelholtz,

Environmental Protection Specialist, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E9–6886 Filed 3–26–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8591–7]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–1399 or *http://www.epa.gov/compliance/nepa/*. Weekly receipt of Environmental Impact Statements filed 03/16/2009 through 03/20/2009 pursuant to 40 CFR 1506.9.

EIS No. 20090079, Revised Draft EIS, AFS, MT, Cabin Gulch Vegetation Treatment Project, Restore Fire-Adapted Ecosystems, Existing and Desired Conditions, Townsend Ranger District, Helena National Forest, Broadwater County, MT, Comment Period Ends: 05/11/2009, Contact: David Carroll 406–495–3716.

EIS No. 20090080, Final EIS, AFS, CO, Long Draw Reservoir Project, Re-Issue a Special-Use-Authorization to Water Supply and Storage to Allow the Continued Use of Long Draw Reservoir and Dam, Arapaho and Roosevelt National Forests and

Pawnee National Grassland, Grand and Larimer Counties, CO, Wait Period Ends: 04/27/2009, Contact: Kris Sexton, 970–295–6623.

EIS No. 20090081, Final EIS, AFS, OR, BLT Project, Proposed Vegetation Management Activities, Crescent Ranger District, Deschutes National Forest, Deschutes County, OR, Wait Period Ends: 04/27/2009, Contact: Chris Mickle, 541–433–3200.

EIS No. 20090082, Draft EIS, AFS, CA, Salt Timber Harvest and Fuel Hazard Reduction Project, Proposing Vegetation Management in the Salt Creek Watershed, South Fork Management Unit, Hayfork Ranger District, Shasta-Trinity National Forest, Trinity County, CA, Comment Period Ends: 05/11/2009, Contact: Sandy Mack, 406–375–2638.

EIS No. 20090083, Draft EIS, AFS, 00, Rogue River-Siskiyou National forest, Motorized Vehicle Use, To Enact the Travel Management Rule, Implementation, Douglas, Klamath, Jackson, Curry, Coos and Josephine Counties, OR and Del Norte and Siskiyou Counties, CA, Comment Period Ends: 05/11/2009, Contact: Steven R. Johnson, 541–552–2900.

EIS No. 20090084, Second Final Supplement, BLM, NV, Betze Pit Expansion Project, Development of New Facilities and Expansion of Existing Open-Pit Gold Mining, Eureka and Elko Counties, NV, Wait Period Ends: 04/27/2009, Contact: Kirk Laird, 775–753–0272.

EIS No. 20090085, Revised Draft EIS, FHW, CA, Partially Revised Tier 1—Placer Parkway Corridor Preservation Project, Select and Preserve a Corridor for the Future Construction from CA–70/99 to CA 65, Placer and Sutter Counties, CA, Comment Period Ends: 05/11/2009, Contact: Gary Sweeten, 916–498–5128.

EIS No. 20090086, Second Draft Supplement, GSA, MD, U.S. Food and Drug Administration (FDA) Headquarters Consolidation, Master Plan Update, Federal Research Center at White Oak, Silver Spring, Montgomery County, MD, Comment Period Ends: 05/11/2009, Contact: Suzanne Hill, 202–205–5821.

EIS No. 20090087, Draft EIS, FRA, 00, DesertXpress High-Speed Passenger Train Project, Proposes to Construct and Operate High-Speed Passenger Train between Victorville, California and Las Vegas, Nevada, Comment Period Ends: 05/22/2009, Contact: Wendy Messenger, 202–493–6396.

Amended Notices

EIS No. 20090017, Draft EIS, USN, GU, Mariana Islands Range Complex (MIRC), To Address Ongoing and Proposed Military Training Activities, Mariana Islands, GU, Comment Period Ends: 03/31/2009, Contact: Nora Macariola-See 808–472–1402. Revision to FR Notice Published 01/30/2009: Extending Comment Period from 03/16/2009 to 03/31/2009.

Dated: March 24, 2009.

Ken Mittelholtz,

Environmental Protection Specialist, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E9–6888 Filed 3–26–09; 8:45 am]

BILLING CODE

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8591–6]

Absaloka Coal Mine Expansion, Notice of Availability of the Record of Decision (ROD), National Pollutant Discharge Elimination System (NPDES) permit

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of Availability of the Record of Decision to issue an NPDES permit for the South Extension of the Absaloka Coal Mine.

SUMMARY: The Absaloka surface coal mine is located in southeastern Montana, and will be expanding onto the Crow Indian Reservation. The NPDES permit will be for surface water discharges associated with the operation of the South Extension of the Absaloka Coal Mine. To support its NPDES decision, EPA has adopted the Environmental Impact Statement No. 20080406, BIA, MT, ''Absaloka Mine Crow Reservation South Extension Coal Lease Approval, Proposed Mine Development Plan, and Related Federal and State Permitting Actions, Crow Indian Reservation.'' The ROD and adopted FEIS are available for review at *http://www.epa.gov/region8/water/npdes*. The appeal period for the NPDES permit decision ends April 27, 2009.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Davis; *davis.gregory@epa.gov*; U.S. Environmental Protection Agency, Region 8, (8P–W–WW); 1595 Wynkoop St.; Denver, Colorado, 80202–1129; or 303–312–6314.

Dated: March 24, 2009.

Susan E. Bromm,

Director, Office of Federal Activities.

[FR Doc. E9–6889 Filed 3–26–09; 8:45 am]

BILLING CODE

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8787–1]

Notice of Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with Section 122 (h) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement concerning the Great Lakes Chemical Corporation Emergency Response Superfund Site, El Dorado, Arkansas.

The settlement requires the one (1) settling party to pay a total of $45,000.00 as payment of response costs to the Hazardous Substances Superfund. The total response costs incurred by EPA, as of January 31, 2008, were $63,870.49. The settlement includes a covenant not to sue pursuant to Section 107 of CERCLA, 42, U.S.C. 9607.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to this notice and will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at 1445 Ross Avenue, Dallas, Texas 75202–2733.

DATES: Comments must be submitted on or before April 27, 2009.

ADDRESSES: The proposed settlement and additional background information relating to the settlement are available for public inspection at 1445 Ross Avenue, Dallas, Texas 75202–2733. A copy of the proposed settlement may be obtained from Courtney Kudla, 1445 Ross Avenue, Ste. 1200 (SF–TE), Dallas, Texas 75202–2733 or by calling (214) 665–8008. Comments should reference the Great Lakes Chemical Corporation Emergency Response Superfund Site, El Dorado, Arkansas, and EPA Docket Number 06–02–09, and should be addressed to Courtney Kudla at the address listed above.

FOR FURTHER INFORMATION CONTACT: Anne Foster, 1445 Ross Avenue, Ste. 1200 (RC–S) Dallas, Texas 75202–2733 or call (214) 665–2169.

Dated: March 13, 2009.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

[FR Doc. E9–6881 Filed 3–26–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8787–3]

Maryland; Adequacy Status of the 2008 Reasonable Further Progress Plan for the Baltimore 8-Hour Ozone Nonattainment Area Motor Vehicle Emission Budgets

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy.

SUMMARY: In this notice, EPA is notifying the public that we have found that the Motor Vehicle Emissions Budgets (MVEBs) in the Reasonable Further Progress Plan (RFP) submitted as a State Implementation Plan (SIP) revision on June 4, 2007 by the Maryland Department of the Environment, (MDE) are adequate for transportation conformity purposes. As a result of EPA's finding, the State of Maryland must use the MVEBs from the June 4, 2007 RFP Plan for future conformity determinations for the 8-hour ozone standard.

DATES: These MVEBs are effective April 13, 2009.

FOR FURTHER INFORMATION CONTACT: Martin Kotsch, U.S. EPA, Region III, 1650 Arch Street, Philadelphia, PA 19103 at (215) 814–3335 or by e-mail at: *kotsch.martin@EPA.gov.* The finding is available at EPA's conformity Web site: *http://www.epa.gov/otaq/stateresources/transconf/currsips.htm.*

SUPPLEMENTARY INFORMATION: Throughout this document *''we,'' ''us,''* or *''our''* refer to EPA. The word *''budgets''* refers to the motor vehicle emission budgets for volatile organic compounds (VOCs) and nitrogen oxides (NOx). The word *''SIP''* in this document refers to the RFP Plans for the Baltimore 8-Hour Ozone Nonattainment Area submitted to EPA as SIP revisions on June 4, 2007.

Today's notice is simply an announcement of a finding that EPA has already made. EPA Region III sent a letter to MDE on January 15, 2009 stating that the MVEBs in the RFP Plan are adequate for transportation conformity purposes. As a result of EPA's finding, the State of Maryland must use the MVEBs from the June 4, 2007 RFP Plan for future conformity determinations for the 8-hour ozone standard. This finding has also been announced on EPA's conformity Web site: *http://www.epa.gov/otaq/stateresources/transconf/pastsips.htm.* The adequate MVEBs are provided in the following table:

TABLE 1—MARYLAND MOTOR VEHICLE EMISSIONS BUDGETS

Nonattainment area	2008 Reasonable further progress	
	VOC (tpd)	NOX (tpd)
Baltimore ...	41.2	106.8

Transportation conformity is required by section 176(c) of the Clean Air Act, as amended in 1990. EPA's conformity rule requires that transportation plans, programs and projects conform to state air quality implementation plans and establishes the criteria andprocedure for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). Please note that an adequacy review is separate from EPA's completeness review, and it also should not be used to prejudge EPA's ultimate approval of the SIP. Even if we find a budget adequate, the SIP could later be disapproved. We have described our process for determining the adequacy of submitted SIP budgets in 40 CFR 93.118(f), and have followed this rule in making our adequacy determination.

Dated: March 10, 2009.

William T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. E9–6883 Filed 3–26–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8787–2]

Maryland; Adequacy Status of the 2008 Reasonable Further Progress Plan for the Maryland Portion of the Philadelphia-Wilmington-Atlantic City 8-Hour Ozone Nonattainment Area Motor Vehicle Emission Budgets

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy.

SUMMARY: In this notice, EPA is notifying the public that we have found that the Motor Vehicle Emissions Budgets (MVEBs) in the Reasonable Further Progress Plan (RFP) submitted as a State Implementation Plan (SIP) revision on June 4, 2007 by the Maryland Department of the Environment, (MDE) are adequate for transportation conformity purposes. As a result of EPA's finding, the State of Maryland must use the MVEBs from the June 4, 2007 RFP Plan for future conformity determinations for the 8-hour ozone standard.

DATES: These MVEBs are effective April 13, 2009.

FOR FURTHER INFORMATION CONTACT: Martin Kotsch, U.S. EPA, Region III, 1650 Arch Street, Philadelphia, PA 19103 at (215) 814–3335 or by e-mail at: *kotsch.martin@EPA.gov.* The finding is available at EPA's conformity Web site: *http://www.epa.gov/otaq/stateresources/transconf/currsips.htm.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' or ''our'' refer to EPA. The word ''budgets'' refers to the motor vehicle emission budgets for volatile organic compounds (VOCs) and nitrogen oxides (NOx). The word ''SIP'' in this document refers to the RFP Plans for the Maryland portion of the Philadelphia-Wilmington-Atlantic City Ozone Nonattainment Area submitted to EPA as SIP revisions on June 4, 2007.

Today's notice is simply an announcement of a finding that EPA has already made. EPA Region III sent a letter to MDE on January 15, 2009 stating that the MVEBs in the RFP Plan are adequate for transportation conformity purposes. As a result of EPA's finding, the State of Maryland must use the MVEBs from the June 4, 2007 RFP Plan for future conformity determinations for the 8-hour ozone standard. This finding has also been announced on EPA's conformity Web site: *http://www.epa.gov/otaq/stateresources/transconf/pastsips.htm.*

The adequate MVEBs are provided in the following table:

TABLE 1—MARYLAND MOTOR VEHICLE EMISSIONS BUDGETS

Nonattainment area	2008 Reasonable further progress	
	VOC (tpd)	NOX (tpd)
Cecil County	2.3	7.9

Transportation conformity is required by section 176(c) of the Clean Air Act, as amended in 1990. EPA's conformity rule requires that transportation plans, programs and projects conform to state air quality implementation plans and establishes the criteria and

procedure for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). Please note that an adequacy review is separate from EPA's completeness review, and it also should not be used to prejudge EPA's ultimate approval of the SIP. Even if we find a budget adequate, the SIP could later be disapproved. We have described our process for determining the adequacy of submitted SIP budgets in 40 CFR 93.118(f), and have followed this rule in making our adequacy determination.

Dated: March 10, 2009.

William T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. E9–6878 Filed 3–26–09; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Staff Implementation Guidance

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice of Statement of Federal Financial Accounting Standards Advisory Board Staff Implementation Guidance 31.1: Guidance for Implementation of Statement of Federal Financial Accounting Standards 31, Accounting for Fiduciary Activities.

SUMMARY: Board Action: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), as amended, section 10(a)(2), and the FASAB Rules Of Procedure, as amended in April, 2004, notice is hereby given that the Federal Financial Accounting Standards Advisory Board (FASAB) staff has issued Staff Implementation Guidance (SIG) 31.1: Guidance for Implementation of Statement of Federal Financial Accounting Standards 31, Accounting for Fiduciary Activities.

The SIG will be available at *http://www.fasab.gov/codifica.html.*

FOR FURTHER INFORMATION CONTACT: Wendy Payne, Executive Director, 441 G St., NW., Mail Stop 6K17V, Washington, DC 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. No. 92463.

Dated: March 19, 2009.

Charles Jackson,

Federal Register Liaison.

[FR Doc. E9–6389 Filed 3–26–09; 8:45 am]

BILLING CODE 1610–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewal (3064–0151); Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning the following collection of information titled: ''Notice Regarding Assessment Credits.''

DATES: Comments must be submitted on or before May 26, 2009.

ADDRESSES: Interested parties are invited to submit written comments by any of the following methods. All comments should refer to the name and number of the collection:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html.*
- *E-mail: comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.
- *Mail:* Leneta G. Gregorie (202.898.3719), Counsel, Federal Deposit Insurance Corporation, F–1064, 550 17th Street, NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

A copy of the comments may also be submitted to the OMB Desk Officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Leneta G. Gregorie, at the address identified above.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently approved collection of information:

Title: Notice Regarding Assessment Credits.

OMB Number: 3064–0151.

Frequency of Response: On occasion.

Affected Public: FDIC-insured institutions.

Estimated Number of Respondents: 15.

Estimated Time per Response: 2 hours.

Total Annual Burden: 30 hours.

General Description of Collection: FDIC-insured institutions must notify the FDIC if deposit insurance assessment credits are transferred, e.g., through a sale of the credits or through a merger, in order to obtain recognition of the transfer.

Request for Comment: Comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimate of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of this collection. All comments will become a matter of public record.

Dated at Washington, DC, dated this 24th day of March, 2009.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E9–6856 Filed 3–26–09; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices, Acquisition of Shares of Bank or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. E9–6407 published on page 12362 of the issue for Tuesday, March 24, 2009.

Under the Federal Reserve Bank of Kansas City heading, the entry for David Rossiter, Hartington, Nebraska, is revised to read as follows:

A. Federal Reserve Bank of Kansas City (Todd Offerbacker, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Donald Rossiter, Hartington, Nebraska, individually and as trustee of the Mary E. Rossiter Trust; and Carol F. Rossiter, Macon, Georgia, individually and as trustee of the Mary E. Rossiter Trust, and the Margaret R. Rossiter Trust; Donald W. Rossiter; Carol F. Rossiter; Phyllis Schrempp; J. Scott Schrempp; Christine Rossiter; and Leon Schrempp, a group acting in concert, to retain voting shares of Cedar Bancorp, Inc., and thereby indirectly retain voting shares of Bank of Hartington, both in Hartington, Nebraska.

Comments on this application must be received by April 6, 2009.

Board of Governors of the Federal Reserve System, March 24, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–6842 Filed 3–26–09; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-09–0213]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov*. Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

National Vital Statistics Report Forms (0920–0213)—Reinstatement with change—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The compilation of national vital statistics dates back to the beginning of the 20th century and has been conducted since 1960 by the Division of Vital Statistics of the National Center for Health Statistics, CDC. The collection of the data is authorized by 42 U.S.C. 242k. This submission requests approval to collect the monthly and annually summary statistics for three years.

The Monthly Vital Statistics Report forms provide counts of monthly occurrences of births, deaths, infant deaths, marriages, and divorces. Similar data have been published since 1937 and are the sole source of these data at the National level. The data are used by the Department of Health and Human Services and by other government, academic, and private research and commercial organizations in tracking changes in trends of vital events. Respondents for the Monthly Vital Statistics Report Form are registration officials in each State and Territory, the District of Columbia, and New York City. In addition, local (county) officials in New Mexico who record marriages occurring and divorces and annulments granted in each county of New Mexico will use this form. This form is designed to collect counts of monthly occurrences of births, deaths, infant deaths, marriages, and divorces immediately following the month of occurrence.

The Annual Vital Statistics Occurrence Report Form collects final annual counts of marriages and divorces by month for the United States and for each State. The statistical counts requested on this form differ from provisional estimates obtained on the Monthly Vital Statistics Report Form in that they represent complete counts of marriages, divorces, and annulments occurring during the months of the prior year. These final counts are usually available from State or county officials about eight months after the end of the data year. The data are widely used by government, academic, private research, and commercial organizations in tracking changes in trends of family formation and dissolution. Respondents for the Annual Vital Statistics Occurrence Report Form are registration officials in each State and Territory, the District of Columbia, and New York City.

There is no cost to respondents other than their time. The total estimated annualized burden hours are 211.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	No. of respondents	No. of responses per respondents	Average burden per response (in hours)
State, Territory and New Mexico County officials.	Monthly Vital Statistics Report	91	12	10/60
State, Territory and Other officials	Annual Vital Statistics Occurrence Report.	58	1	30/60

Dated: March 20, 2009.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Office of the Chief Science Officer, Centers for Disease Control and Prevention.

[FR Doc. E9–6850 Filed 3–26–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Evaluating Locally-Developed (Homegrown) HIV Prevention Interventions for African-American and Hispanic/Latino Men Who Have Sex With Men (MSM), Funding Opportunity Announcement (FOA) Number PA 09–007 and Operational Research To Improve the Implementation of Evidence-Based Interventions That Are Supported by the Diffusion of Effective Behavioral Interventions (DEBI) Project, FOA Number PA 09–008

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting.

Time and Date: 8 a.m.–5 p.m., April 28, 2009 (Closed).

Place: Sheraton Gateway Hotel, Atlanta Airport, 1900 Sullivan Road, Atlanta, GA 30337, Telephone (770) 997–1100.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to ''Evaluating Locally-Developed (Homegrown) HIV Prevention Interventions for African-American and Hispanic/Latino Men Who Have Sex with Men (MSM), FOA Number PA 09–007,'' and ''Operational Research to Improve the Implementation of Evidence-Based Interventions that are Supported by the Diffusion of Effective Behavioral Interventions (DEBI) Project, FOA Number PA 09–008.''

Contact Person for More Information: Gregory Anderson, M.P.H., M.S., Scientific Review Administrator, Strategic Science and Program Unit, Office of the Director, Coordinating Center for Infectious Diseases, CDC, 1600 Clifton Road, Mailstop E–60, Atlanta, GA 30333, Telephone: (404) 498–2275.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: March 20, 2009.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E9–6854 Filed 3–26–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Screening Targeted Populations To Interrupt On-going Chains of Transmission With Enhanced Partner Notification—The STOP Study, Funding Opportunity Announcement (FOA) Number PA 09–004 and Demonstration Project of Elective Adult Male Circumcision Conducted in Sexually Transmitted Disease (STD) Clinics in the United States, FOA Number PA 09–005

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting.

Time and Date: 8 a.m.–5 p.m., April 27, 2009 (Closed).

Place: Sheraton Gateway Hotel, Atlanta Airport, 1900 Sullivan Road, Atlanta, GA 30337, Telephone (770) 997–1100.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to ''Screening Targeted Populations to Interrupt On-going Chains of Transmission with Enhanced Partner Notification—The STOP Study, FOA Number PA 09–004;'' and ''Demonstration Project of Elective Adult Male Circumcision Conducted in Sexually Transmitted Disease (STD) Clinics in the United States, FOA Number PA 09–005.''

Contact Person for More Information: Gregory Anderson, M.P.H., M.S., Scientific Review Administrator, Strategic Science and Program Unit, Office of the Director, Coordinating Center for Infectious Diseases, CDC, 1600 Clifton Road, Mailstop E–60, Atlanta, GA 30333, Telephone: (404) 498–2275.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: March 20, 2009.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E9–6859 Filed 3–26–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–2284–N]

Deeming Notice for the College of American Pathologists (CAP) as an Accrediting Organization Under the Clinical laboratory Improvement Amendments of 1988

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

ACTION: Notice.

SUMMARY: This notice announces the application of the College of American Pathologists (CAP) for approval as an accreditation organization for clinical laboratories under the Clinical Laboratory Improvement Amendments of 1988 (CLIA) program for all specialties and subspecialties. In this notice, we announce the approval and grant the CAP deeming authority for all CLIA specialties and subspecialties for a period of 6 years. We have determined that the CAP meets or exceeds the applicable CLIA requirements.

DATES: *Effective Date*: This notice is effective from March 27, 2009 until March 27, 2015.

FOR FURTHER INFORMATION CONTACT: Val Coppola, (410)786–3531.

SUPPLEMENTARY INFORMATION:

I. Background

On October 31, 1988, the Congress enacted the Clinical Laboratory Improvement Amendments of 1988 (CLIA), Public Law 100–578. CLIA amended section 353 of the Public Health Service Act. We issued a final rule implementing the accreditation provisions of CLIA on July 31, 1992 (57 FR 33992). Under the CLIA program, CMS may grant deeming authority to an accreditation organization that accredits clinical laboratories if the organization meets certain requirements. An organization's requirements for laboratories accredited under its program must be equal to or more stringent than the applicable CLIA program requirements in 42 CFR part 493 (Laboratory Requirements). This requirement and others in subpart E of that part (Accreditation by a Private,

Nonprofit Accreditation Organization or Exemption Under an approved State Laboratory Program) specify the requirements an accreditation organization must meet to be approved by CMS as an accreditation organization under CLIA.

II. Notice of Approval of Deeming Authority for the CAP

In this notice, we approve the College of American Pathologists (CAP) as an organization that may accredit laboratories for purposes of establishing their compliance with CLIA requirements in all specialties and subspecialties. We have examined the initial CAP application and all subsequent submissions to determine their accreditation program's equivalency with the requirements for approval of an accreditation organization under subpart E of part 493. We have determined that the CAP meets or exceeds the applicable CLIA requirements. We have also determined that the CAP's Laboratory Accreditation Program (LAP) will ensure that its accredited laboratories will meet or exceed the applicable requirements in subparts H, I, J, K, M, Q, and the applicable sections of R. Therefore, we grant the CAP approval as an accreditation organization under subpart E of part 493, for the period stated in the Effective Date section of this notice for all specialties and subspecialties. As a result of this determination, any laboratory that is accredited by the CAP during the time period stated in the Effective Date section of this notice is deemed to meet the CLIA requirements for laboratories found in part 493 of our regulations and, therefore, is generally not subject to routine inspections by a State survey agency to determine its compliance with CLIA requirements. The accredited laboratory, however, is subject to validation and complaint investigation surveys performed by CMS, or its agent(s).

III. Evaluation of the CAP Request for Approval as an Accreditation Organization Under CLIA

The following describes the process used to determine that the CAP's LAP meets the necessary requirements to be approved by CMS, and that, as such, CMS may approve the CAP's LAP as an accreditation program with deeming authority under the CLIA program. CAP formally applied to CMS for approval as an accreditation organization under CLIA for all specialties and subspecialties. In reviewing these materials, CMS found the following for each applicable subpart of the CLIA regulations:

A. Subpart E—Accreditation by a Private, Nonprofit Accreditation Organization or Exemption Under an Approved State Laboratory Program

The CAP submitted its mechanism for monitoring compliance with all requirements equivalent to condition-level requirements, a list of all its current laboratories and the expiration date of their accreditation, and a detailed comparison of the individual accreditation requirements with the comparable condition-level requirements. The CAP's policies and procedures for oversight of laboratories performing all laboratory testing covered by CLIA are equivalent to those of CLIA in the matters of inspection, monitoring proficiency testing (PT) performance, investigating complaints, and making PT information available. CAP's requirements for monitoring and inspecting laboratories are the same as those previously approved by CMS for laboratories in the areas of accreditation organization, data management, the inspection process, procedures for removal or withdrawal of accreditation, notification requirements, and accreditation organization resources. The requirements of the CAP are equal to the requirements of the CLIA regulations.

B. Subparts H–Participation in Proficiency Testing for Laboratories Performing Nonwaived Testing; Subpart I—Proficiency Testing Programs for Nonwaived Testing; Subpart K—Quality System for Nonwaived Testing; and Subpart M—Personnel for Nonwaived Testing

Our evaluation identified areas of the CAP requirements that are more stringent than the CLIA requirements and apply to the laboratory as a whole. Rather than include them in the appropriate subparts multiple times, we list them as follows:

- CAP requires the directors of its accredited laboratories to sign an attestation that their laboratories are in compliance with all applicable Federal, State, and local laws;
- CAP requires quality and personnel standards for all waived tests;
- CAP lists extensive requirements for the Laboratory Information System (LIS) that include, but are not limited to, the following areas:

—Preservation, storage, and retrieval of laboratory and patient data.
—Review of LIS programs for appropriate content and testing before use, when a new program is to be put in place, or when changes are made to existing programming.
—Maintenance of the LIS facility (must be clean, well ventilated, and at proper temperature and humidity).
—Protection of LIS against power interruptions and surges.
—Readily available procedure manuals for LIS operators, adequately trained operators who know how to preserve data and equipment in emergency situations (for example, fire, software or hardware failure).
—Protection of the LIS, its data, patient information, and programs from unauthorized use.
—Entry of data and result reporting.
—Verification and maintenance of LIS hardware and software.
—Routine and emergency service and maintenance of the LIS.
—Evaluation from the laboratory director of the LIS performance as it pertains to patient and clinician needs.

- CAP also accredits laboratories that perform testing for any of the following non-CLIA areas and sets specific standards these accredited laboratories must comply:

—Forensic drug testing.
—Parentage testing.
—Reproductive laboratory testing (Andrology and embryology).

C. Subpart H—Participation in Proficiency Testing for Laboratories Performing Nonwaived Testing and Listing of Analytes Requiring PT From Subpart I

The CAP requirements for PT are in conformance with the CLIA statute which requires that all laboratories be tested by PT for each test or examination for which PT is available. The CAP PT requirements are more stringent than the CLIA regulations in subpart H which specifies the tests in subpart I for which the laboratory must enroll, and also requires the laboratory participate in a CMS-approved PT program.

CLIA exempts waived testing from PT, whereas the CAP requires its accredited laboratories to participate in a CMS-approved PT program for all testing, including test systems waived under CLIA.

We have determined that the actions taken by the CAP to correct unsatisfactory (one failure) PT performance are equivalent to those of CLIA and that the actions taken to correct unsuccessful (2 in a row or 2 out of 3 failures) PT performance of its laboratories are more stringent than those of CLIA. The CAP utilizes an on-going electronic monitoring process that

flags both unsatisfactory and unsuccessful results for all PT performance of both analytes required by CLIA and all other testing for which PT is available and is required by the CAP.

For all PT performed in its accredited laboratories, the CAP requires investigation of each unsatisfactory result, as determined by the CAP (CMS does not apply PT requirements for analytes not listed in subpart I.). The laboratory is instructed to investigate and document the cause of the erroneous result and the corrective actions taken to avoid future failures. CLIA regulations state that, for only the analytes listed in subpart I, the laboratory must undertake appropriate training and employ the technical assistance that is necessary to correct problems associated with an unsatisfactory score, take remedial action, and document all steps taken.

Unsuccessful PT performance, as determined by the CAP, for analytes not listed in subpart I, initiates immediate communication between the CAP and the laboratory director. A written response must be submitted to the CAP, explaining the results of the laboratory's investigation of the problem, the actions taken to correct the problem, and evidence that the problem was successfully corrected. If, after review by the CAP, it is determined that the laboratory's subsequent PT performance is within acceptable limits, no further action is taken. If the laboratory does not respond, fails to seriously address the problem, or cannot bring performance into acceptable limits, the CAP would evaluate the situation and either request that the laboratory cease testing for the analyte, specialty, or subspecialty in question, or, if warranted, revoke accreditation. (Please see Subpart R, Enforcement Procedures, for specific actions taken by the CAP for PT failures of analytes listed in subpart I.)

CLIA regulations allow a laboratory to undertake training of its personnel or to obtain technical assistance or both, when the initial unsuccessful PT performance occurs, instead of imposing alternative or principal sanctions.

D. Subpart J—Facility Administration for Non-Waived Testing

The CAP requirements are equivalent or more stringent than the CLIA requirements at § 493.1100 through § 493.1105. We have determined that the CAP's more stringent requirements for environmental safety address electrical voltage, facility ventilation, lighting, temperature, humidity, and emergency power source, and require remedial actions to be taken when necessary. Its requirements for molecular amplification procedures, laboratory safety which includes requirements for handling and disposal of biohazardous materials, fire safety and prevention of fire hazards, and record maintenance are all more stringent than those of CLIA. The CAP's transfusion service requirements are more stringent than those of CLIA and the CAP's record retention requirements are more stringent than those of CLIA.

E. Subpart K—Quality System for Nonwaived Testing

The quality control (QC) requirements of CAP have been evaluated against those of the CLIA regulations. We have determined that the QC requirements of CAP are more stringent than the CLIA requirements, when taken as a whole. Some specific areas of QC that are more stringent are as follows:

- The CAP requires procedure manuals to include the principal and clinical significance for each test, and laboratory procedures must include documentation of initial review, review and approval of all subsequent changes, and annual review.
- The CAP requires its accredited laboratories performing gynecologic (GYN) cytology to enroll in its Interlaboratory (PAP Education) Comparison Program in GYN Cytology as well as a CMS approved GYN PT program. The CAP requires its accredited laboratories to use the appropriate reagent grade water for the testing performed, stating which type of water (from type I through type III) must be used in specific tests. Source water also must be evaluated for silicate levels.
- Laboratories accredited by the CAP must verify all non-class A volumetric glassware and pipettes for accuracy and reproducibility before use, and must recheck them periodically. These activities must be documented.
- Laboratories accredited by the CAP that perform maternal serum triple tests or quadruple tests, and acetyl cholinesterase have specific requirements that must be met. These include a qualitative specimen evaluation, requesting and reporting information necessary for interpretation of results such as gestational age, maternal birth date, race, maternal weight, presence of insulin-dependent diabetes mellitus, and multiple gestations. The CAP also requires medians be re-calculated or re-verified annually and patient test results are reported in multiples of the population median.
- The CAP lists extensive requirements for methodologies of molecular pathology and flow cytometry, which are presented in separate checklists, and immunohistochemistry has specific requirements within histology.

We have determined that the CAP's requirements are equal to, or more stringent than, the CLIA requirements for quality assurance purposes. The CAP also offers an educational program (Q–Probes) to its accredited laboratories that provides further information on quality assurance to the large, full service laboratories that allows peer review and comparisons between facilities.

F. Subpart M—Personnel for Nonwaived Testing

The CAP Standards for Laboratory Accreditation state at Standard I, Director and Personnel Requirements (under item D, Personnel) that all laboratory personnel must be in compliance with applicable Federal, State, and local laws and regulations. This standard is implemented in the general laboratory requirement that there must be evidence in personnel records that all testing personnel have been evaluated against CLIA regulatory requirements for high complexity testing, and that all individuals qualify. The CAP holds all technical personnel in its accredited laboratories to the high complexity personnel requirements of CLIA.

The CAP has implemented a new checklist specific to the laboratory director qualifications and responsibilities. Therefore, we have determined that the personnel requirements of the CAP are more stringent than the personnel requirements of CLIA, when taken as a whole.

G. Subpart Q—Inspection

We have determined that the CAP inspection requirements, taken as a whole, are equivalent to the CLIA inspection requirements.

The CAP will continue its policy of biennial on-site announced inspections. An unannounced inspection would be performed when a complaint, lodged against a laboratory accredited by the CAP, indicates that problems exist within that laboratory that are likely to have serious and immediate effects on patient care.

The CAP requires a mid-cycle self-inspection of all accredited laboratories. All requirements for the mid-cycle self-inspection must be responded to in writing, and the responses must be submitted to the CAP within a specified

timeframe. CLIA regulations do not have this requirement.

H. Subpart R—Enforcement Procedures

The CAP meets the requirements of subpart R to the extent that they apply to accreditation organizations. The CAP policy stipulates the actions it takes when laboratories it accredits do not comply with its requirements and standards for accreditation. As demonstrated during its first two periods of approval, the CAP denies accreditation to a laboratory when appropriate, and reports the denial to CMS within 30 days. The CAP also provides an appeal process for laboratories that have had accreditation denied.

Some specific actions the CAP takes in response to non-compliance or violation of its requirements or standards for accreditation include:

—The enrollment monitoring process runs continuously throughout the year. When no enrollment data or incomplete enrollment data are received based on the laboratory's test menu, letters are sent notifying the laboratory of its missing enrollments. If no enrollment is found after 60 days, the laboratory is sent a ''cease testing'' letter for the analytes not properly enrolled in PT.

—For all analytes listed in subpart I that the CAP accredited laboratories perform, the CAP technical staff reviews such testing to verify two previous PT performances, reviews PT evaluation to detect trends and repeats failures, contacts the laboratory to alert them if the status is critical, and issues cease testing letters when appropriate.

—When an accredited laboratory has unsatisfactory performance, a letter is sent instructing it to investigate and document the cause of the erroneous result and the corrective actions it takes to prevent recurrence.

—When there is an initial unsuccessful performance, the laboratory may either provide documentation of investigation and corrective action or the laboratory is given the option to voluntarily cease testing the unsuccessful analyte(s).

—If the laboratory indicates it will permanently cease testing of a non-initial unsuccessful PT performance, the activity is removed from the laboratory's test menu. If the laboratory wishes to resume testing at a later date, it must successfully perform two consecutive re-instatement PT testing events.

—When the CAP becomes aware of a problem in an accredited laboratory that is so severe and extensive that it could cause a serious risk of harm (an immediate jeopardy situation), an expedited evaluation is immediately undertaken by the Chair and Vice Chair of the Accreditation Committee, the Regional Commissioner and the Director of the Laboratory Accreditation Program. If it is determined that an immediate jeopardy situation exists, the laboratory is required to remove the jeopardy situation immediately or accreditation would be revoked and reported to CMS. An on-site focused re-inspection may be performed to verify that the immediate jeopardy no longer exists. These actions are similar to CMS actions for immediate jeopardy.

—The CAP requires its accredited laboratories to correct all deficiencies within 30 days. CLIA deficiencies that are not condition level must be corrected in a timeframe that is acceptable to CMS, but no longer than 12 months. CLIA deficiencies that are condition level that are not considered immediate jeopardy must be corrected in an acceptable timeframe; however, CMS may impose one or more alternate sanctions or a principal sanction to motivate laboratories to correct these deficiencies. The CAP timeframe for correction of deficiencies, when taken as a whole, is more stringent than CLIA.

We have determined that the CAP's laboratory enforcement and policies are equivalent to the requirements of this subpart as they apply to accreditation organizations.

IV. Federal Validation Inspections and Continuing Oversight

The Federal validation inspections of laboratories accredited by the CAP may be conducted on a representative sample basis or in response to substantial allegations of noncompliance (that is, complaint inspections). The outcome of those validation inspections, performed by CMS or our agents, the State survey agencies, will be our principal means for verifying that the laboratories accredited by CAP remain in compliance with CLIA requirements. This Federal monitoring is an ongoing process.

V. Removal of Approval as an Accrediting Organization

Our regulations provide that we may rescind the approval of an accreditation organization, such as that of the CAP, for cause, before the end of the effective date of approval. If we determine that the CAP has failed to adopt, maintain and enforce requirements that are equal to, or more stringent than, the CLIA requirements, or that systemic problems exist in its monitoring, inspection or enforcement processes, we may impose a probationary period, not to exceed 1 year, in which the CAP would be allowed to address any identified issues. Should the CAP be unable to address the identified issues within that time frame, CMS may, in accordance with the applicable regulations, revoke CAP's deeming authority under CLIA.

Should circumstances result in our withdrawal of the CAP's approval, we will publish a notice in the **Federal Register** explaining the basis for removing its approval.

VI. Collection of Information Requirements

This notice does not impose any information collection and record keeping requirements subject to the Paperwork Reduction Act (PRA). Consequently, it does not need to be reviewed by the Office of Management and Budget (OMB) under the authority of the PRA. The requirements associated with the accreditation process for clinical laboratories under the Clinical Laboratory Improvement Amendments of 1988 (CLIA) program, and the implementing regulations in 42 CFR part 493, subpart E, are currently approved under OMB control number 0938–0686.

Authority: Section 353(p) of the Public Health Service Act (42 U.S.C. 263a).

Dated: February 26, 2009.

Charlene Frizzera,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. E9–6903 Filed 3–26–09; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–2294–FN]

Medicare and Medicaid Programs; Approval of the Joint Commission for Continued Deeming Authority for Hospices

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

ACTION: Final notice.

SUMMARY: This final notice announces the approval of a deeming application from the Joint Commission for continued recognition as a national

accreditation program for hospices that request participation in the Medicare or Medicaid programs.

EFFECTIVE DATE: This final notice is effective June 18, 2009 through June 18, 2015.

FOR FURTHER INFORMATION CONTACT:
Alexis Prete, (410) 786–0375.
Patricia Chmielewski, (410) 786–6899.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services in a hospice provided certain requirements are met. Section 1861(dd)(1) of the Social Security Act (the Act) establishes distinct criteria for facilities seeking designation as a hospice program. Under this authority, the regulations at 42 CFR part 418 specify the conditions that a hospice must meet in order to participate in the Medicare program, the scope of covered services, and the conditions for Medicare payment for hospice care. Provider agreement regulations are located in 42 CFR part 489 and regulations pertaining to the survey and certification of facilities are located in 42 CFR part 488.

Generally, in order to enter into an agreement, a hospice facility must first be certified by a State survey agency as complying with the conditions or requirements set forth in part 418 of our regulations. Then, the hospice is subject to regular surveys by a State survey agency to determine whether it continues to meet these requirements. There is an alternative, however, to surveys by State agencies.

Section 1865(a)(1) of the Act (as redesignated under section 125 of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) (Pub. L. 110–275)) provides that, if a provider entity demonstrates through accreditation by an approved national accreditation organization that all applicable Medicare conditions are met or exceeded, we would ''deem'' those provider entities as having met the requirements. (We note that section 125 of MIPPA redesignated subsections (b) and (e) of subsection 1865 of the Act as (a) and (d) respectively.) Accreditation by an accreditation organization is voluntary and is not required for Medicare participation.

If an accreditation organization is recognized by the Secretary as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting body's approved program would be deemed to meet the Medicare conditions. A national accreditation organization applying for approval of deeming authority under part 488, subpart A must provide us with reasonable assurance that the accreditation organization requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning reapproval of accrediting organizations are set forth at § 488.4 and § 488.8(d)(3). The regulations at § 488.8(d)(3) require accreditation organizations to reapply for continued approval of deeming authority every 6 years or sooner as determined by CMS. The Joint Commission's term of approval as a recognized accreditation program for Hospice facilities expires June 18, 2009.

II. Deeming Applications Approval Process

Section 1865(a)(3)(A) of the Act provides a statutory timetable to ensure that our review of deeming applications is conducted in a timely manner. The Act provides us with 210 calendar days after the date of receipt of an application to complete our survey activities and application review process. Within 60 days of receiving a completed application, we must publish a notice in the **Federal Register** that identifies the national accreditation body making the request, describes the request, and provides no less than a 30 day public comment period. At the end of the 210-day period, we must publish a notice in the **Federal Register** of our approval or denial of the application.

III. Proposed Notice

On November 28, 2008 we published a proposed notice (73 FR 72487) announcing the Joint Commission's request for reapproval as a deeming organization for hospices. In this notice we specified in detail our evaluation criteria. Under section 1865(a)(2) of the Act and in our regulations at § 488.4 (Application and reapplication procedures for accreditation organizations), we conducted a review of the Joint Commission's application in accordance with the criteria specified in our regulation, which include, but are not limited to the following:

- An onsite administrative review of the Joint Commissions—(1) corporate policies; (2) financial and human resources available to accomplish the proposed surveys; (3) procedures for training, monitoring, and evaluation of its surveyor; (4) ability to investigate and respond appropriately to complaints against accredited facilities; and (5) survey review and decision-making process for accreditation.
- A comparison of the Joint Commission's hospice accreditation standards to our current Medicare conditions for participation.
- A documentation review of the Joint Commission's survey processes to:
- Determine the composition of the survey team, surveyor qualifications, and the ability of the Joint Commission to provide continuing surveyor training.
- Compare the Joint Commission's processes to that of State survey agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.
- Evaluate the Joint Commission's procedures for monitoring providers or suppliers found to be out of compliance with the Joint Commission program requirements. The monitoring procedures are used only with the Joint Commission identifies noncompliance. If noncompliance is identified through validation reviews, the survey agency monitors corrections as specified at § 488.7(d).
- Assess the Joint Commission's ability to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.
- Establish the Joint Commission's ability to provide us with electronic data and reports necessary for effective validation and assessment of the Joint Commission's survey process.
- Determine the adequacy of staff and other resources.
- Review the Joint Commission's ability to provide adequate funding for performing required surveys.
- Confirm the Joint Commission's policies with respect to whether surveys are announced or unannounced.
- Obtain the Joint Commission's agreement to provide us with a copy of the most current accreditation survey together with any other information related to the survey as we may require, including corrective action plans.

In accordance with section 1865(a)(3)(A) of the Act, the November 28, 2008 proposed notice (73 FR 72487) also solicited public comments regarding whether the Joint Commission's requirements met or exceeded the Medicare conditions of participation for hospices. We received no public comments in response to our proposed notice.

IV. Provisions of the Final Notice

A. Differences Between the Joint Commission Standards and Requirements and Medicare's Conditions and Survey Requirements

We compared the standards contained in the Joint Commission's

''Comprehensive Accreditation Manual for Home Care'' (CAMHC) and its survey process in the ''Surveyor Activity Guide'' with the Medicare hospice conditions for participation and our State Operations Manual (SOM). Our review and evaluation of the Joint Commission's deeming application, which were conducted as described in section III of this notice yielded the following:

- On June 5, 2008, CMS published a final rule (73 FR 32088) that revised the existing conditions of participation that hospices must meet to participate in the Medicare and Medicaid Program. In accordance with the regulations at § 488.4(a)(3)(iv), the Joint Commission updated and revised their standards and survey procedures to meet the Medicare requirements.
- To meet the Medicare requirements at section 2728 of the SOM, the Joint Commission modified its policies for posting the deemed status survey results within 10 days onto its extranet site.
- The Joint Commission will conduct all for-cause surveys on an unannounced basis.
- The Joint Commission modified its executive summary statement to clearly indicate that providers must meet all accreditation standards in order to be recommended for deemed status.

B. Term of Approval

Based on the review and observations described in section III of this final notice, we have determined that the Joint Commission's requirements for hospices meet or exceed our requirements. Therefore, we recognize the Joint Commission as a national accreditation organization for hospices that request participation in the Medicare program, effective June 18, 2009 through June 18, 2015.

V. Collection of Information Requirements

This final notice does not impose any information collection and record keeping requirements. Consequently, it does not need to be reviewed by the Office of Management and Budget (OMB) under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplemental Medical Insurance Program)

Dated: March 4, 2009.

Charlene Frizzera,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. E9–6775 Filed 3–26–09; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3212–N]

Medicare Program; Request for Nominations for Members for the Medicare Evidence Development & Coverage Advisory Committee

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

ACTION: Notice.

SUMMARY: This notice announces a request for nominations for consideration for membership on the Medicare Evidence Development & Coverage Advisory Committee (MEDCAC). Among other things, the MEDCAC advises the Secretary of the Department of Health and Human Services (the Secretary) and the Administrator of the Centers for Medicare & Medicaid Services on whether medical items and services are ''reasonable and necessary'' and therefore eligible for coverage under Title XVIII of the Social Security Act.

We are requesting nominations for both voting and nonvoting members to serve on the MEDCAC. Nominees are selected based upon their individual qualifications and not as representatives of professional associations or societies. We have a special interest in ensuring that women, minority groups, and physically challenged individuals are adequately represented on the MEDCAC. Therefore, we encourage nominations of qualified candidates from these groups.

The MEDCAC reviews and evaluates medical literature, reviews technology assessments, and examines data and information on the effectiveness and appropriateness of medical items and services that are covered or eligible for coverage under Medicare.

DATES: Nominations for membership will be considered if postmarked by April 27, 2009 and mailed to the contact person specified in the **FOR FURTHER INFORMATION CONTACT** section of this notice to the designated address, as provided in the **ADDRESSES** section of this notice.

ADDRESSES: You may mail nominations for membership to the following: Attention: Maria Ellis, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mail Stop: C1–09–06, Baltimore, MD 21244–1850.

FOR FURTHER INFORMATION CONTACT: Maria Ellis, Executive Secretary for MEDCAC, Centers for Medicare & Medicaid Services OCSQ—Coverage and Analysis Group, Mailstop: C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244, or contact Ms. Ellis by phone at 410–786–0309; or via e-mail at *Maria.Ellis@cms.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On December 14, 1998, we published a notice in the **Federal Register** (63 FR 68780) announcing establishment of the Medicare Coverage Advisory Committee (MCAC). The Secretary signed the initial charter for the Medicare Coverage Advisory Committee on November 24, 1998. On January 26, 2007 the Secretary published a notice in the **Federal Register** (72FR 3853), changing the Committee's name to the Medicare Evidence Development and Coverage Advisory Committee (MEDCAC). The charter for the committee was renewed by the Secretary and will terminate on November 24, 2010, unless renewed again by the Secretary.

The MEDCAC is governed by provisions of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. 2), which sets forth standards for the formulation and use of advisory committees, and is authorized by section 222 of the Public Health Service Act as amended (42 U.S.C. 217a).

The MEDCAC consists of a pool of 100 appointed members including: 6 patient advocates, who are standard voting members, and 6 representatives of industry interests, who are nonvoting members. Members are selected from among authorities in clinical medicine of all specialties, administrative medicine, public health, biologic and physical sciences, health care data and information management and analysis, patient advocacy, the economics of health care, medical ethics, and other related professions such as epidemiology and biostatistics, and methodology of trial design.

The MEDCAC functions on a committee basis. The Committee reviews and evaluates medical literature, reviews technology assessments, and examines data and information on the effectiveness and appropriateness of medical items and services that are covered or eligible for coverage under Medicare. The

Committee works from an agenda provided by the Designated Federal Official that lists specific issues, and develops technical advice to assist us in determining reasonable and necessary applications of medical services and technology when we make national coverage decisions for Medicare. The Committee also advises CMS as part of Medicare's coverage evidence development activities.

II. Provisions of the Notice

As of May 2009, there will be 20 terms of membership expiring, 2 of which are nonvoting industry representatives and 2 are voting patient advocates.

Accordingly, we are requesting nominations for both voting and nonvoting members to serve on the MEDCAC. Nominees are selected based upon their individual qualifications and not as representatives of professional associations or societies. We have a special interest in ensuring that women, minority groups, and physically challenged individuals are adequately represented on the MEDCAC. Therefore, we encourage nominations of qualified candidates from these groups.

All nominations must be accompanied by curricula vitae. Nomination packages must be sent to the address listed in the **ADDRESSES** section of this notice. Nominees for voting membership must meet MEDCAC criteria by having expertise and experience in one or more of the following fields:

- Clinical medicine of all specialties.
- Administrative medicine.
- Public health.
- Patient advocacy.
- Biologic and physical sciences.
- Health care data and information management and analysis.
- The economics of health care.
- Medical ethics.
- Other related professions such as epidemiology and biostatistics, and methodology of clinical trial design.

We are looking for experts in a number of fields. Our most critical needs are for experts in Bayesian statistics; clinical epidemiology; clinical trial methodology; knee, hip, and other joint replacement surgery; ophthalmology; psychopharmacology; registries; rheumatology; screening and diagnostic testing analysis; and stroke. We also need experts in biostatistics in clinical settings, cardiovascular epidemiology, cost effectiveness analysis, dementia, endocrinology, geriatrics, gynecology, minority health, observational research design, stroke epidemiology, and women's health.

The nomination letter must include a statement that the nominee is willing to serve as a member of the MEDCAC and appears to have no conflict of interest that would preclude membership. We are requesting that all curricula vitae include the following:

- Date of birth.
- Place of birth.
- Social security number.
- Title and current position.
- Professional affiliation.
- Home and business address.
- Telephone and fax numbers.
- E-mail address.
- List of areas of expertise.

In the nomination letter, we are requesting that the nominee specify whether they are applying for a voting patient advocate position, for another voting position, or as a non-voting industry representative. Potential candidates will be asked to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts in order to permit evaluation of possible sources of conflict of interest.

Members are invited to serve for overlapping 2-year terms. A member may serve after the expiration of the member's term until a successor takes office. Any interested person may nominate one or more qualified persons. Self-nominations are also accepted.

The current Secretary's Charter for the MEDCAC is available on the CMS Web site at: *http://www.cms.hhs.gov/FACA/Downloads/medcaccharter.pdf*, or you may obtain a copy of the charter by submitting a request to the contact listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Authority: 5 U.S.C. App. 2, section 10(a)(1) and (a)(2).

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

Dated: March 18, 2009.

Barry M. Straube,

Chief Medical Officer, Director, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services.

[FR Doc. E9–6772 Filed 3–26–09; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–7013–N]

Medicare Program; Announcement of Rechartering and Meeting of the Advisory Panel on Medicare Education, April 22, 2009

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

ACTION: Notice of meeting.

SUMMARY: This notice announces the renewal of the charter of the Advisory Panel on Medicare Education (the Panel). The Panel advises and makes recommendations to the Secretary of Health and Human Services and the Administrator of the Centers for Medicare & Medicaid Services on opportunities to enhance the effectiveness of consumer education strategies concerning the Medicare program. This notice also announces a meeting of the Panel in accordance with the Federal Advisory Committee Act. This meeting is open to the public.

DATES: *Meeting Date*: April 22, 2009 from 8:30 a.m. to 3 p.m., eastern daylight time (e.d.t.).

Deadline for Meeting Registration, Presentations and Comments: April 15, 2009, 5 p.m., e.d.t.

Deadline for Requesting Special Accommodations: April 8, 2009, 5 p.m., e.d.t.

ADDRESSES: *Meeting Location*: Hilton Washington Hotel Embassy Row, 2015 Massachusetts Avenue, NW., Washington, DC 20036, (202) 265–6800.

Meeting Registration, Presentations, and Written Comments: Lynne Johnson, Designated Federal Official, Division of Forum and Conference Development, Office of External Affairs, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mailstop S1–05–06, Baltimore, MD 21244–1850 or contact Ms. Johnson via e-mail at *Lynne.Johnson@cms.hhs.gov.*

Registration: The meeting is open to the public, but attendance is limited to the space available. Persons wishing to attend this meeting must register by contacting Lynne Johnson at the address listed in the **ADDRESSES** section of this notice or by telephone at (410) 786–0090, by the date listed in the **DATES** section of this notice.

FOR FURTHER INFORMATION CONTACT: Lynne Johnson, (410) 786–0090. Please refer to the CMS Advisory Committees' Information Line (1–877–449–5659 toll free)/(410–786–9379 local) or the

Internet *(http://www.cms.hhs.gov/FACA/04_APME.asp)* for additional information and updates on committee activities. Press inquiries are handled through the CMS Press Office at (202) 690–6145.

SUPPLEMENTARY INFORMATION:

Section 9(a)(2) of the Federal Advisory Committee Act authorizes the Secretary of Health and Human Services (the Secretary) to establish an advisory panel if the Secretary determines that the panel is ''in the public interest in connection with the performance of duties imposed * * * by law.'' Such duties are imposed by section 1804 of the Social Security Act (the Act), requiring the Secretary to provide informational materials to Medicare beneficiaries about the Medicare program, and section 1851(d) of the Act, requiring the Secretary to provide for ''activities * * * to broadly disseminate information to [M]edicare beneficiaries * * * on the coverage options provided under [Medicare Advantage] in order to promote an active, informed selection among such options.''

The Panel is also authorized by section 1114(f) of the Act (42 U.S.C. 1311(f)) and section 222 of the Public Health Service Act (42 U.S.C. 217a). The Secretary signed the charter establishing this Panel on January 21, 1999 (64 FR 7899, February 17, 1999) and approved the renewal of the charter on January 21, 2009. The Panel advises and makes recommendations to the Secretary and the Administrator of the Centers for Medicare & Medicaid Services (CMS) on opportunities to enhance the effectiveness of consumer education strategies concerning the Medicare program.

The goals of the Panel are as follows:

- To provide recommendations on the development and implementation of a national Medicare education program that describes benefit options under Medicare.
- To enhance the Federal government's effectiveness in informing the Medicare consumer.
- To make recommendations on how to expand outreach to vulnerable and underserved communities, including racial and ethnic minorities, in the context of a national Medicare education program.
- To assemble an information base of best practices for helping consumers evaluate benefit options and build a community infrastructure for information, counseling, and assistance.

The current members of the Panel are: Gwendolyn T. Bronson, SHINE/SHIP Counselor, Massachusetts SHINE Program; Dr. Yanira Cruz, President and Chief Executive Officer, National Hispanic Council on Aging; Stephen L. Fera, Vice President, Social Mission Programs, Independence Blue Cross; Clayton Fong, President and Chief Executive Officer, National Asian Pacific Center on Aging; Nan Kirsten-Forté, Executive Vice President, Consumer Services, WebMD; Cathy Graeff, R.Ph., M.B.A., National, Senior Vice President, Communications and Industry Relations, National Council for Prescription Drug Programs; Dr. Carmen R. Green, Director, Pain Research Division, Associate Professor, Anesthesiology, University of Michigan Health System; Dr. Jessie C. Gruman, President and Chief Executive Officer, Center for the Advancement of Health; Cindy Hounsell, J.D., President, Women's Institute for a Secure Retirement; Kathy Hughes, Vice Chairwoman, Oneida Nation; Gail Hunt, President and Chief Executive Officer, National Alliance for Caregiving; Dr. Andrew M. Kramer, Professor of Medicine, University of Colorado, Denver; Dr. Frank B. McArdle, Manager, Hewitt Research Office, Hewitt Associates; Sandy Markwood, Chief Executive Officer, National Area Agencies on Aging; Robert L. Mollica, Consumer; David Roberts, M.P.A., Vice President, Government Relations, Healthcare Information and Management Systems Society; Julie Bodën Schmidt, Associate Vice President, Training and Technical Assistance Department, National Association of Community Health Centers; Rebecca Snead, Executive Vice President and Chief Executive Officer, National Alliance of State Pharmacy Associations.

The agenda for the April 22, 2009 meeting will include the following:

- Recap of the previous (January 13, 2009) meeting.
- Subgroup Committee Work Summary.
- Medicare Outreach and Education Strategies.
- Public Comment.
- Listening Session with CMS Leadership.
- Next Steps.

Individuals or organizations that wish to make a 5-minute oral presentation on an agenda topic should submit a written copy of the oral presentation to Lynne Johnson at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice. The number of oral presentations may be limited by the time available. Individuals not wishing to make a presentation may submit written comments to Ms. Johnson at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice.

Individuals requiring sign language interpretation or other special accommodations should contact Ms. Johnson at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice.

Authority: Sec. 222 of the Public Health Service Act (42 U.S.C. 217a) and sec. 10(a) of Public Law 92–463 (5 U.S.C. App. 2, sec. 10(a) and 41 CFR 102–3).

(Catalog of Federal Domestic Assistance Program No. 93.733, Medicare—Hospital Insurance Program; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: March 18, 2009.

Charlene Frizzera,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. E9–6773 Filed 3–26–09; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–2282–N]

Medicare, Medicaid, and CLIA Programs; Approval of the American Osteopathic Association as a CLIA Accreditation Organization

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

ACTION: Notice.

SUMMARY: This notice announces CMS' grant of deeming authority to the American Osteopathic Association (AOA) under the Clinical Laboratory Improvement Amendments of 1988 (CLIA) program. We have determined that the requirements of the AOA accreditation process are equal to or more stringent than the CLIA condition level requirements, and that the AOA has met the requirements of CMS. Consequently, laboratories that are voluntarily accredited by the AOA and continue to meet the AOA requirements will be deemed to meet the CLIA condition level requirements for laboratories and therefore are not subject to routine inspection by State survey agencies to determine their compliance with Federal requirements. They are, however, subject to Federal validation and complaint investigation surveys conducted by CMS or its designee.

DATES: *Effective Date:* This notice is effective from March 27, 2009 to March 27, 2015.

FOR FURTHER INFORMATION CONTACT: Kathleen Todd, (410) 786–3385.

SUPPLEMENTARY INFORMATION:

I. Background and Legislative Authority

On October 31, 1988, Congress enacted the Clinical Laboratory Improvement Amendments of 1988 (CLIA), Public Law 100–578. CLIA replaced in its entirety section 353(e)(2) of the Public Health Service Act, as enacted by the Clinical Laboratory Improvement Act of 1967. We issued a final rule implementing the accreditation provisions of CLIA on July 31, 1992 (57 FR 33992). Under the CLIA program, CMS may grant deeming authority to an accreditation organization that accredits clinical laboratories if the organization meets certain requirements. An organization's requirements for accredited laboratories must be equal to, or more stringent than, the applicable CLIA program requirements in 42 CFR part 493 (Laboratory Requirements). The regulations in subpart E (Accreditation by a Private, Nonprofit Accreditation Organization or Exemption Under an Approved State Laboratory Program) specify the requirements an accreditation organization must meet to be an approved accreditation organization. We approve an accreditation organization for a period not to exceed 6 years.

The approved accreditation organization must:

- Use inspectors qualified to evaluate laboratory performance and agree to inspect laboratories at the frequency determined by CMS.
- Apply standards and criteria that are equal to, or more stringent than, those condition level requirements established by CMS.
- Assure that laboratories accredited by the accreditation organization continually meet these standards and criteria.
- Provide CMS with the name of any laboratory that has had its accreditation denied, suspended, withdrawn, limited, or revoked within 30 days of the action taken.
- Notify CMS at least 30 days before implementing any proposed changes in its standards.
- If we withdraw our approval, notify the accredited laboratories of the withdrawal within 10 days of the withdrawal.

CLIA requires that we perform an annual evaluation of approved accreditation organizations by inspecting a representative sample of laboratories accredited by the organization, as well as by any other means that we determine to be appropriate.

The AOA was initially granted deeming authority under the CLIA program on July 21, 1995 (HSQ–229–N).

II. Notice of Approval of the American Osteopathic Association as an Accreditation Organization

In this notice, we approve AOA as an organization that may accredit laboratories for purposes of establishing their compliance with CLIA requirements. We have examined the AOA application and all subsequent submissions to determine equivalency with our requirements under subpart E of part 493 that an accreditation organization must meet to be approved under CLIA. We have determined that the AOA complies with the applicable CLIA requirements and grant the AOA deeming authority as an accreditation organization under subpart E, for the period stated in the ''Effective Date'' section of this notice for all specialty and subspecialty areas under CLIA.

As a result of this determination, any laboratory that is accredited by the AOA during the effective time period for an approved specialty or subspecialty is deemed to meet the CLIA requirements for the laboratories found in part 493 of our regulations and, therefore, is not subject to routine inspection by a State survey agency to determine its compliance with CLIA requirements. The accredited laboratory, however, is subject to validation and complaint investigation surveys performed by CMS, or by any other validly authorized agent.

III. Evaluation of the American Osteopathic Association Request for Approval as an Accreditation Organization Under CLIA

The following describes the process used to determine that requirements of the AOA accreditation program are equal to or more stringent than the CLIA condition level requirements, and that the AOA has met requirements of subpart E of 42 CFR part 493.

The AOA formally reapplied to CMS for approval as an accreditation organization under CLIA for all specialties and subspecialties. We evaluated the AOA application to determine compliance with our implementing and enforcement regulations, and the deeming/exemption requirements of the CLIA rules.

We verified that the AOA accreditation program requirements and methods require the laboratories it accredits to be in compliance with the following subparts of part 493 as explained below, and that the organization meets or exceeds the following subparts of part 493 as explained below:

Subpart E—Accreditation by a Private, Nonprofit Accreditation Organization or Exemption Under an Approved State Laboratory Program

The AOA submitted the specialties and subspecialties that it would accredit; a comparison of its accreditation requirements to CLIA condition level requirements; a description of its inspection process and its proficiency testing (PT) monitoring process; its data management and analysis system; a listing of the size, composition, education and experience of its inspection teams; its investigative and complaint response procedures; its notification agreements with CMS; its procedures for removing or withdrawing laboratory accreditation; its current list of accredited laboratories; and its announced or unannounced inspection process.

The AOA met the requirements of part 493 subpart E as they apply to accreditation organizations.

Subpart H—Participation in Proficiency Testing for Laboratories Performing Nonwaived Testing

The AOA requirements are equal to the CLIA requirements at § 493.801 through § 493.865.

Subpart J—Facility Administration for Nonwaived Testing

The AOA requirements are equal to the CLIA requirements at § 493.1100 through § 493.1105.

Subpart K—Quality System for Nonwaived Testing

The AOA requirements are equal to or more stringent than the CLIA requirements at § 493.1200 through § 493.1299.

Subpart M—Personnel for Nonwaived Testing

The AOA requirements are equal to or more stringent than the CLIA requirements at § 493.1351 through § 493.1495 for laboratories that perform moderate and high complexity testing.

Subpart Q—Inspections

The AOA requirements are equal to or more stringent than the CLIA requirements at § 493.1771 through § 493.1780. The AOA will continue to perform onsite inspections every 2 years.

Subpart R—Enforcement Procedures

The AOA meets the requirements of subpart R to the extent that they apply

to accreditation organizations. The AOA policy sets forth the actions the organization takes when laboratories it accredits do not comply with its requirements and standards for accreditation. When appropriate, the AOA will deny, suspend, or, revoke accreditation in a laboratory accredited by the AOA and report that action to CMS within 30 days. The AOA also provides an appeal process for laboratories that have had accreditation denied, suspended, or revoked.

We have determined that the AOA's laboratory enforcement and appeal policies are equal to or more stringent than the requirements of part 493 subpart R as they apply to accreditation organizations.

IV. Federal Validation Inspections and Continuing Oversight

The Federal validation inspections of AOA accredited laboratories may be conducted on a representative sample basis or in response to substantial allegations of noncompliance (that is, complaint inspections). The outcome of those validation inspections, performed by CMS or its agents, or the State survey agencies, will be our principal means for verifying that the laboratories accredited by the AOA remain in compliance with CLIA requirements. This Federal monitoring is an ongoing process.

V. Removal of Approval as an Accrediting Organization

Our regulations provide that we may rescind the approval of an accreditation organization, such as that of the AOA, for cause, before the end of the effective date of approval. If we determine that the AOA failed to adopt requirements that are equal to, or more stringent than, the CLIA requirements, or that systemic problems exist in its inspection process, we may give it a probationary period, not to exceed 1 year, to allow the AOA to adopt comparable requirements.

Should circumstances result in our withdrawal of the AOA's approval, we will publish a notice in the **Federal Register** explaining the basis for removing its approval.

VI. Collection of Information Requirements

This notice does not impose any information collection and record keeping requirements subject to the Paperwork Reduction Act (PRA). Consequently, it does not need to be reviewed by the Office of Management and Budget (OMB) under the authority of the PRA. The requirements associated with the accreditation process for clinical laboratories under the Clinical Laboratory Improvement Amendments of 1988 (CLIA) program, codified in 42 CFR part 493 subpart E, are currently approved by OMB under OMB approval number 0938–0686.

Authority: Section 353 of the Public Health Service Act (42 U.S.C. 263a).

Dated: February 13, 2009.

Charlene Frizzera,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. E9–5473 Filed 3–26–09; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects:

Title: Temporary Assistance for Needy Families/National Directory of New Hires Match Results Report.

OMB No.: 0970–0311.

Description: Section 453(j)(3) of the Social Security Act (the Act) allows for matching between the National Directory of New Hires (maintained by the Federal Office of Child Support Enforcement (OCSE)) and State TANF Agencies for purposes of carrying out responsibilities under programs funded under part A of Title IV of the Act. To assist OCSE and the Office of Family Assistance (OFA) in measuring savings to the TANF program attributable to the use of NDNH data matches, the State TANF Agencies have agreed to provide OCSE with a written description of the performance outputs and outcomes attributable to the State TANF Agency's use of NDNH match results. This information will help OCSE demonstrate how the NDNH supports the OCSE's mission and strategic goals.

Respondents: State TANF Agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
TANF/NDNH Match Results Report	40	4	0.17	27.20

Estimated Total Annual Burden Hours: 27.20.

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: March 23, 2009.

Janean Chambers,

Reports Clearance Officer.

[FR Doc. E9–6804 Filed 3–26–09; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of 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: Biomedical Library and Informatics Review Committee.

Date: June 11–12, 2009.

Time: June 11, 2009, 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20892.

Time: June 12, 2009, 8 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: Arthur A Petrosian, PhD, Scientific Review Officer, Division of Extramural Programs, National Library of Medicine, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892–7968, 301–496–4253, *petrosia@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: March 19, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–6646 Filed 3–26–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5285–N–06]

Notice of Proposed Information Collection: Comment Request; Mark-to-Market Program; Requirements for Community-Based Non-Profit Organizations and Public Agencies

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: May 26, 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: Theodore Toon, Deputy Assistant Secretary, Office of Affordable Housing Preservation, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–0001 (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: Mark-to-Market Program; Requirements for Community-Based Non-Profit Organizations and Public Agencies.

OMB Control Number, if applicable: 2502–0563.

Description of the Need for the Information and Proposed Use: Provides proof of tenant endorsement of entity proposing to purchase restructured property and obtain modification, assignment, or forgiveness of second mortgage debt.

Agency Form Numbers, if Applicable: None.

Estimation of the Total Numbers of Hours Needed to Prepare the Information Collection Including Number of Respondents, Frequency of Response, and Hours of Response: The number of burden hours is 350. The number of respondents is 2,535, the number of responses is 2,535, the frequency of response is on occasion, and the burden hour per response is 0.14.

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: March 23, 2009.

Ronald Y. Spraker,

Acting General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. E9–6812 Filed 3–26–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5281–N–24]

HUD Acquisition Regulation (HUDAR)

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been 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.

The HUDAR supplements the Federal Acquisition Regulation (FAR). Information collection required of the public is solely in connection with the acquisition process.

DATES: *Comments Due Date:* April 27, 2009.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2535–0091) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Lillian Deitzer at *Lillian_L._Deitzer@HUD.gov* or telephone(202) 402–8048. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: HUD Acquisition Regulation (HUDAR) (48 CFR 24)

OMB Approval Number: 2535–0091.

Form Numbers: HUD–770, SF–85, FD 258, SF–85P, and OF 306.

*Description of the Need for the Information and its Proposed Use:*The HUDAR supplements the Federal Acquisition Regulation (FAR). Information collection required of the public is solely in connection with the acquisition process.

Frequency of Submission: On occasion, monthly, annually.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	3,200	3.49		3.50		39,196

Total Estimated Burden Hours: 39,196.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: March 23, 2009.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E9–6813 Filed 3–26–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5281–N–23]

FHA Lender Approval, Annual Renewal, Periodic Updates and Noncompliance Reporting by FHA Approved Lenders

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been 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.

This information is required for approval of all FHA Title I lender and Title II mortgagees. Additional information is then required of all FHA approved Title I lenders and Title II mortgagees to: (1) Maintain their approval (annual Recertification); (2) add/delete branches; (3) pay additional fees to FHA for annual Recertification, new branches, and business conversions; (4) report business changes of lender and mortgagee quality control plans; (6) voluntarily terminate FHA approval and file credit watch termination reinstatement requests.

DATES: *Comments Due Date: April 27, 2009.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–0005) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Lillian Deitzer at *Lillian_L._Deitzer@HUD.gov* or telephone (202) 402–8048. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: FHA Lender Approval, Annual Renewal, Periodic Updates and Noncompliance Reporting by FHA Approved Lenders.

OMB Approval Number: 2502–0005.

Form Numbers: HUD–92001–A, HUD–92001–B, HUD 92001–C, & HUD 92001–D, HUD–92001–E, HUD–92001–F, HUD–92001–G, and HUD–92001–H.

Description of the Need for the Information and its Proposed Use: This information is required for approval of all FHA Title I lender and Title II mortgagees. Additional information is then required of all FHA approved Title I lenders and Title II mortgagees to: (1) Maintain their approval (annual Recertification); (2) add/delete branches; (3) pay additional fees to FHA for annual Recertification, new branches, and business conversions; (4) report business changes of lender and mortgagee quality control plans; (6) voluntarily terminate FHA approval and file credit watch termination reinstatement requests.

Frequency of Submission: On occasion, Annually.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	17,000	3.74		0.68		43,547

Total Estimated Burden Hours: 43,547.

Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

March 23, 2009.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E9–6814 Filed 3–26–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5281–N–22]

Notice of Proposed Information Collection: Comment Request; Request Requirements for Notification of Lead-Based Paint Hazards in Federally-Owned Residential Properties and Housing Receiving Federal Assistance

AGENCY: Office of the Chief Information Officer, 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:* May 26, 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 L. Deitzer, Departmental Reports Management Officer, QDAM, Department or Housing and Urban Development, 451 Seventh Street, SW., Room 4176, Washington, DC 20410; telephone: 202–402–8048, (this is not a toll-free number) or e-mail Ms. Deitzer at *Lillian_L._Deitzer@HUD.gov* for a copy of the proposed form and other available information.

FOR FURTHER INFORMATION CONTACT: Warren Friedman, Senior Advisor, Office of Healthy Homes and Lead Hazard Control, Office of Departmental and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Warren.Friedman@HUD.gov*, telephone 202–402–7574; Fax 202–755–1000 (this is not a toll-free number) for other available information.

If you are a hearing- or speech-impaired person, you may reach the above telephone numbers through TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Department will submit 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 affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Request Requirements for Notification of Lead-Based Paint Hazards in Federally-Owned Residential Properties and Housing Receiving Federal Assistance.

OMB Control Number, if Applicable: 2539–0009.

Description of the Need for the Information and Proposed Use: Requirements for notification of lead-based paint hazard in federally-owned residential properties and housing receiving Federal assistance.

Agency Form Numbers, if Applicable: None.

Members of Affected Public: Business or other for-profit, not-for-profit institutions, State, local or tribal government.

Estimation of the Total Number of Hours Needed to Prepare the Information Collection including Number of Respondents, Frequency of Response, and Hours of Response: An estimation of the total numbers of hours needed to prepare the Information collection is 167,744, number of respondents is 63,637, frequency of response is ''on occasion,'' and the hours per response is 2.6 hours.

Status of the Proposed Information Collection: Extension of a currently approved collection.

Authority: section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 20, 2009.

Jon L. Gant,

Director, Office of Healthy Homes and Lead Hazard Control.

[FR Doc. E9–6815 Filed 3–26–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5200–FA–09]

Announcement of Funding Awards for the Public Housing Family Self-Sufficiency for Fiscal Year 2008

AGENCY: Office of Public and Indian Housing, HUD.

ACTION: Announcement 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 for funding under the FY 2008 Notice of Funding Availability (NOFA) for the Public and Indian Housing Family Self-Sufficiency Program Coordinators under Resident Opportunities and Self-Sufficiency (ROSS) Program for Fiscal Year 2008. This announcement contains the consolidated names and addresses of those award recipients selected for funding based on the funding priority categories established in the NOFA.

FOR FURTHER INFORMATION CONTACT: For questions concerning the FY 2008

Public Housing Family Self-Sufficiency under ROSS awards, contact the Office of Public and Indian Housing's Grant Management Center, Acting Director, Keia L. Neal, Department of Housing and Urban Development, Washington, DC, telephone (202) 475–8908. For the hearing or speech impaired, these numbers may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1 (800) 877–8339. (Other than the ''800'' TTY number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The authority for the $12,000,000 in one-year budget authority for Public Housing Family Self-Sufficiency Program Coordinators under ROSS is found in the Departments of Veteran Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2008 (Pub. L. 110–161). The allocation of housing assistance budget authority is pursuant to the provisions of 24 CFR part 791, subpart D, implementing section 213 (d) of the Housing and Community Development Act of 1974, as amended.

This program is intended to promote the development of local strategies to coordinate the use of assistance with public and private resources to enable participating families to achieve economic independence and housing self-sufficiency. A Public Housing Family Self-Sufficiency Program Coordinator assures that program participants are linked to the supportive services they need to achieve self-sufficiency.

The Fiscal Year 2008 awards announced in this Notice were selected for funding in a competition announced in the **Federal Register** NOFA published on May 12, 2008. 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 names, addresses, and amounts of the 206 awards made under the Public Housing Family Self-Sufficiency competition.

Dated: March 19, 2009.

Paula O. Blunt,

General Deputy Assistant Secretary for Public and Indian Housing.

APPENDIX A—FISCAL YEAR 2008 FUNDING AWARDS FOR THE PH FAMILY SELF-SUFFICIENCY PROGRAM

Organization	Address/City/State/Zip Code	Amount
Alexander City Housing Authority	2110 County Road, Alexander City, AL 35010	37,644
Jefferson County Housing Authority	3700 Industrial Parkway, Birmingham, AL 35217	54,045
Mobile Housing Board	151 S. Claiborne Street, Mobile, AL 36602	54,232
Prichard Housing Authority	4559 St. Stephens Road , Eight Mile, AL 36613	47,472
The Housing Authority of the City of Huntsville	200 Washington Street, Huntsville, AL 35804	55,000
The Housing Authority of the City of Montgomery, Alabama	1020 Bell Street, Montgomery, AL 36104	41,025
Tuscaloosa Housing Authority	2808 10th Avenue, Tuscaloosa, AL 35401	38,686
Housing Authority of the City of North Little Rock	2201 Division, North Little Rock, AR 72114	38,297
Housing Authority of the City of West Memphis	2820 Harrison Street, West Memphis, AR 72301	41,000
City of Phoenix Housing Department	251 W. Washington, 4th Floor, Phoenix, AZ 85003	65,500
City of Tucson	P.O. Box 27210, 310 N. Commerce Park Loop, Tucson, AZ 85726.	68,000
Housing Authority of the City of Yuma	420 South Madison Avenue, Yuma, AZ 85364	58,873
Housing Authority of Maricopa County	2024 N 7th Street, Suite 101, Phoenix, AZ 85006	47,486
Bear River Band of Rohnerville Rancheria	27 Bear River Drive, Loleta, CA 95551	67,208
Housing Authority of the City of Madera	205 North G Street, Madera, CA 93638	51,248
Housing Authority of the City of Oakland	1619 Harrison Street, Oakland, CA 94612	66,836
Housing Authority of the City of Oxnard	435 South D Street, Oxnard, CA 93030	68,000
Housing Authority of the City of San Buenaventura	995 Riverside Street, Ventura, CA 93001	67,465
Housing Authority of the City of San Luis Obispo	487 Leff Street, San Luis Obispo, CA 93401	51,486
Housing Authority of the City of Santa Barbara	808 Laguna Street, Santa Barbara, CA 93101	65,000
Housing Authority of the County of Kern	601–24th Street, Bakersfield, CA 93301	60,909
Housing Authority of the County of Marin	4020 Civic Center Drive, San Rafael, CA 94903	65,000
Housing Authority of the County of San Bernardino	715 E. Brier Drive, San Bernardino, CA 92408	67,465
Housing Authority of the County of San Joaquin	448 S. Center Street, Stockton, CA 95203	113,528
Housing Authority of the County of Santa Cruz	2931 Mission Street, Santa Cruz, CA 95060	67,465
Housing Authority of the County of Stanislaus	P.O. Box 581918, 1701 Robertson Road, Modesto, CA 95358	65,000
Boulder Housing Partners aba Housing Authority of City of B	4800 Broadway, Boulder, CO 80503	68,000
Fort Collins Housing Authority	1715 West Mountain Avenue, Fort Collins, CO 80521	68,000
Housing Authority of the City & County of Denver	777 Grant Street, Denver, CO 80203	229,275
The Housing Authority of the City of Loveland	375 W. 37th Street, Suite 200, Loveland, CO 80538	67,465
Housing Authority of the City of Meriden	22 Church Street, Meriden, CT 6451	55,179
Housing Authority of the City of Norwalk	P.O. Box 508, 24½ Monroe Street, Norwalk, CT 6856	67,465
Housing Authority of the Town of Greenwich	249 Milbank Avenue, Greenwich, CT 6830	67,465
Dover Housing Authority	76 Stevenson Drive, Dover, DE 19901	37,610
Hialeah Housing Authority	75 East 6th Street, Hialeah, FL 33010	37,981
Housing Authority of Brevard County	615 Kurek Court, Merritt Island, FL 32953	53,614
Housing Authority of City of Ft. Pierce	707 North 7th Street, Fort Pierce, FL 34950	45,320
Housing Authority of Lakeland	430 Hartsell Avenue, Lakeland, FL 33815	49,094
Housing Authority of the City of Fort Myers	4224 Michigan Avenue, Fort Myers, FL 33916	56,643
Jacksonville Housing Authority	1300 Broad Street, Jacksonville, FL 32202	43,657
Lee County Housing Authority	14170 Warner Circle, N.W., N. Fort Myers, FL 33903	46,000
Sarasota Housing Authority (SHA)	1300 Boulevard of the Arts, Sarasota, FL 34236	45,000
The Housing Authority of the City of Bradenton, FL	2002 9th Avenue E., Bradenton, FL 34208	46,813
The Housing Authority of the City of Daytona Beach	211 N. Ridgewood Avenue, Suite 200, Daytona Beach, FL 32114.	42,436
The Housing Authority of the City of Tampa	1514 Union Street, Tampa, FL 33607	63,714
The West Palm Beach Housing Authority	1715 Division Avenue, West Palm Beach, FL 33407	37,898
Carrollton Housing Authority	1 Roop Street, Carrollton, GA 30117	57,568

APPENDIX A—FISCAL YEAR 2008 FUNDING AWARDS FOR THE PH FAMILY SELF-SUFFICIENCY PROGRAM—Continued

Organization	Address/City/State/Zip Code	Amount
Housing Authority of Columbus Georgia	P.O. Box 630, 1000 Wynnton Road, Columbus, GA 31902	45,000
Housing Authority of the City of Albany, GA	P.O. Box 485, 521 Pine Avenue, Albany, GA 31702	29,066
Macon Housing Authority	2015 Felton Avenue, Macon, GA 31201	61,522
Northwest Georgia Housing Authority	800 North Fifth Avenue, Rome, GA 30162	44,195
Hawaii Public Housing Authority	P.O. Box 17907, Honolulu, HI 96817	65,000
City of Des Moines Municipal Housing Agency	100 E. Euclid Avenue, Suite 101, Des Moines, IA 50313	30,602
Eastern Iowa Regional Housing Authority	3999 Pennsylvania Avenue, Suite 200, Dubuque, IA 52002	62,915
Nampa Housing Authority	211—19th Avenue North, Nampa, ID 83687	41,290
Chicago Housing Authority	60 E. Van Buren Street, Chicago, IL 60605	54,635
Housing Authority of Greene County	P.O. Box 336, 325 North Carr, White Hall, IL 62092	45,910
Housing Authority of Henry County	125 N. Chestnut Street, Kewanee, IL 61443	46,110
Housing Authority of the City of Rock Island	227—21st Street, Rock Island, IL 61201	67,465
Macoupin County Housing Authority	P.O. Box 226, 760 Anderson Street, Carlinville, IL 62626	41,375
Peoria Housing Authority	100 S. Richard Pryor Place, Peoria, IL 61605	48,073
Rockford Housing Authority	223 S. Winnebago Street, Rockford, IL 61102	65,005
Springfield Housing Authority	200 North Eleventh Street, Springfield, IL 62703	37,080
Housing Authority of the City of Fort Wayne, Indiana	P.O. Box 13489, 7315 Hanna Street, Fort Wayne, IN 46869	43,878
Housing Authority of the City of Terre Haute	P.O. Box 3086, Terre Haute, IN 47803	61,702
Housing Authority, City of Elkhart	1396 Benham Avenue, Elkhart, IN 46516	38,629
Indianapolis Housing Agency	1919 N. Meridian Street, Indianapolis, IN 46202	45,000
The Housing Authority of the City of Michigan City, Indiana	621 East Michigan Boulevard, Michigan City, IN 46360	40,170
Lawrence-Douglas County Housing Authority	1600 Haskell Avenue, Lawrence, KS 66044	62,852
Salina Housing Authority	PO Box 1202, 469 S. 5th Street, Salina, KS 67401	56,650
Housing Authority of Bowling Green	247 Double Springs Road, Bowling Green, KY 42101	45,000
Housing Authority of Glasgow	P.O. Box 1745, 111 Bunche Ave., Glasgow, KY 42142	39,448
Louisville Metro Housing Authority	420 South Eighth Street, Louisville, KY 40203	66,689
Housing Authority of New Orleans	4100 Touro Street, New Orleans, LA 70122	68,000
Jefferson Parish Housing Authority	1718 Betty Street, Marrero, LA 70072	44,557
Shreveport Housing Authority	2500 Line Avenue, Shreveport, LA 71104	36,220
Boston Housing Authority	52 Chauncy Street, Boston, MA 2111	68,000
Framingham Housing Authority	1 John J. Brady Drive, Framingham, MA 1702	66,950
Lynn Housing Authority & Neighborhood Development (LHAND)	10 Church Street, Lynn, MA 1902	50,027
Somerville Housing Authority	30 Memorial Road, Somerville, MA 2145	65,500
Worcester Housing Authority	40 Belmont Street, Worcester, MA 1605	65,500
Housing Authority of Baltimore City	417 E. Fayette Street, Room 923, Baltimore, MD 21202	67,465
Housing Authority of St. Mary's County, Maryland	21155 Lexwood Drive, Suite C, Lexington Park, MD 20653	40,784
Housing Authority of the City of Frederick	209 Madison Street, Frederick, MD 21701	51,500
Housing Authority of the City of Hagerstown	35 W. Baltimore Street, Hagerstown, MD 21740	98,840
Housing Commission of Anne Arundel County	7477 Baltimore-Annapolis Boulevard, Glen Burnie, MD 21061	63,000
Housing Opportunities Commission	10400 Detrick Avenue, Kensington, MD 20895	133,042
Rockville Housing Enterprises	621–A Southlawn Lane, Rockville, MD 20850	21,750
Housing Authority of the City of Brewer	15 Colonial Circle, Suite 1, Brewer, ME 4412	49,799
Lewiston Housing Authority	1 College Street, Lewiston, ME 4240	16,824
Portland Housing Authority	14 Baxter Boulevard, Portland, ME 4101	18,057
Grand Rapids Housing Commission	1420 Fuller Avenue, SE., Grand Rapids, MI 49507	65,500
Muskegon Housing Commission	1080 Terrace, Muskegon, MI 49442	43,313
Saginaw Housing Commission	1803 Norman Street, Saginaw, MI 48605	48,676
Housing & Redevelopment Authority of Virginia MN	442 Pine Mill Court, Virginia, MN 55792	54,487
Housing Authority of St. Louis Park	5005 Minnetonka Blvd., St. Louis Park, MN 55416	17,000
Washington County Housing and Redevelopment Authority	321 Broadway Avenue, Saint Paul Park, MN 55071	27,569
Housing Authority of Kansas City, Missouri	301 East Armour, Kansas City, MO 64111	52,634
Housing Authority of the City of Columbia, MO	201 Switzler Street, Columbia, MO 65203	49,388
St. Louis Housing Authority	4100 Lindell Boulevard, St. Louis, MO 63108	68,000
The Housing Authority of the City of Saint Charles	1041 Olive Street, Saint Charles, MO 63301	40,820
Housing Authority of the City of Biloxi	P.O. Box 447, 330 Benachi Avenue, Biloxi, MS 39533	42,230
Natchez Housing Authority	2 Auburn Avenue, Natchez, MS 39120	59,877
The Housing Authority of the City of Meridian	2425 E. Street, Meridian, MS 39301	49,306
Burlington Housing Authority	P.O. Box 2380, 133 North Ireland Street, Burlington, NC 27217	55,129
Charlotte Housing Authority	1301 South Boulevard, Charlotte, NC 28214	65,000
City of Concord Housing Department	P.O. Box 308, 283 Harold Goodman Circle, Concord, NC 28026	45,780
City of Hickory Public Housing Authority	P.O. Box 2927, Hickory, NC 28603	47,199
Gastonia Housing Authority	P.O. Box 2398, 340 West Long Avenue, Gastonia, NC 28053	50,000
Greensboro Housing Authority	450 N. Church Street, Greensboro, NC 27401	60,670
Housing Authority of the City of Asheville	165 South French Broad Avenue, Asheville, NC 28802	55,000
Housing Authority of the City of Greenville	1103 Broad Street, Greenville, NC 27835	56,906
Housing Authority of the City of High Point	500 East Russell Avenue, High Point, NC 27261	98,712
Housing Authority of the City of Kinston, North Carolina	608 N Queen Street, Kinston, NC 28501	44,261
Housing Authority of the City of Winston-Salem	500 West Fourth Street, Suite 300, Winston-Salem, NC 27101	53,030
Lexington Housing Authority	1 Jamaica Drive, Lexington, NC 27292	54,721
Statesville Housing Authority	110 W. Allison Street, Statesville, NC 28677	97,718
The Housing Authority of the City of Durham	P.O. Box 1726, 330 East Main Street, Durham, NC 27701	66,950
Housing Authority of the City of Lincoln	5700 R Street, Lincoln, NE 68505	48,879

APPENDIX A—FISCAL YEAR 2008 FUNDING AWARDS FOR THE PH FAMILY SELF-SUFFICIENCY PROGRAM—Continued

Organization	Address/City/State/Zip Code	Amount
Housing Authority of the City of Omaha	540 S. 27th Street, Omaha, NE 68105	42,169
Kearney Housing Agency	2715 Avenue I OFC, Kearney, NE 68847	48,158
Atlantic City Housing Authority	227 N. Vermont Avenue, 17th Floor, Atlantic City, NJ 08401	54,732
Housing Authority County of Morris	99 Ketch Road, Morristown, NJ 07960	35,000
Housing Authority of the City of Camden	2021 Watson Street, Camden, NJ 08105	46,221
Millville Housing Authority	309 Buck Street, Millville, NJ 08360	45,320
The Housing Authority of Plainfield	510 East Front Street, Plainfield, NJ 07060	68,000
The Newark Housing Authority	500 Broad Street, 2nd Floor, Newark, NJ 07102	68,000
Clovis Housing & Redevelopment Agency, Inc	P.O. Box 1240, 2101 W. Grand Avenue, Clovis, NM 88101	42,436
Santa Fe Civic Housing Authority	664 Alta Vista Street, Santa Fe, NM 87505	54,280
Santa Fe County Housing Authority	52 Camino de Jacobo, Santa Fe, NM 87507	53,339
Taos County Housing Authority	525 Ranchitos Road, Box 4239, Taos, NM 87571	47,380
Truth or Consequences Housing Authority	108 S. Cedar, Truth or Consequences, NM 87901	53,000
Housing Authority of the City of Las Vegas	340 N. 11th Street, Las Vegas, NV 89101	123,309
Housing Authority of the City of Reno	1525 East 9th Street, Reno, NV 89512	27,392
Housing Authority of the County of Clark, Nevada	5390 E. Flamingo Road, Las Vegas, NV 89122	51,984
Buffalo Municipal Housing Authority	300 Perry Street, Buffalo, NY 14204	66,887
Cohoes Housing Authority	100 Manor Sites, Cohoes, NY 12047	14,705
Geneva Housing Authority	P.O. Box 153, 41 Lewis Street, Geneva, NY 14456	63,100
Monticello Housing Authority	76 Evergreen Drive, Monticello, NY 12701	36,565
Municipal Housing Authority of the City of Schenectady	375 Broadway, Schenectady, NY 12305	53,916
Municipal Housing Authority of the City of Utica, New York	509 2nd Street, Suite 1, Utica, NY 13501	66,950
New Rochelle Municipal Housing Authority	50 Sickles Avenue, New Rochelle, NY 10801	67,465
Troy Housing Authority	One Eddy's Lane, Troy, NY 12180	58,437
Akron Metropolitan Housing Authority	100 W. Cedar Street, Akron, OH 44307	124,010
Chillicothe Metropolitan Housing Authority	178 W. Fourth Street, Chillicothe, OH 45601	47,436
Fairfield Metropolitan Housing Authority	315 North Columbus Street, Suite 200, Lancaster, OH 43130	55,465
Geauga Metropolitan Housing Authority	385 Center Street, Chardon, OH 44024	60,000
Lorain Metropolitan Housing Authority	1600 Kansas Avenue, Lorain, OH 44052	36,500
Lucas Metropolitan Housing Authority	P.O. Box 477, 435 Nebraska Avenue, Toledo, OH 43604	51,947
Morgan Metropolitan Housing Authority	4580 N. Street, Route 376 NW., McConnelsville, OH 43756	46,987
Springfield Metropolitan Housing Authority	101 West High Street, Springfield, OH 45502	43,765
Trumbull Metropolitan Housing Authority	4076 Youngstown Rd., SE., Suite 101, Warren, OH 44484	47,204
Youngstown Metropolitan Housing Authority	131 W. Boardman Street, Youngstown, OH 44503	57,785
Zanesville Metropolitan Housing Authority	407 Pershing Road, Zanesville, OH 43701	49,988
Housing Authority of the City of Muskogee	220 North 40th Street, Muskogee, OK 74401	41,200
Housing Authority of the City of Shawnee, OK	P.O. Box 3427, 601 West 7th Street, Shawnee, OK 74802	97,504
Housing Authority of the City of Tulsa	415 East Independence, Tulsa, OK 74106	44,031
Housing Authority & Community Services Agency of Lane County.	177 Day Island Road, Eugene, OR 97401	67,465
Housing Authority & Urban Renewal Agency of Polk County	P.O. Box 467, 204 SW. Walnut Avenue, Dallas, OR 97338	14,970
Housing Authority of Portland	135 SW. Ash, Portland, OR 97204	195,000
Housing Authority of the City of Salem	360 Church Street, SE., Salem, OR 97301	67,450
Umatilla Reservation Housing Authority	51 Umatilla Loop, Pendleton, OR 97801	65,000
Allegheny County Housing Authority	625 Stanwix Street, 12th Floor, Pittsburgh, PA 15222	66,435
Altoona Housing Authority	2700 Pleasant Valley Boulevard, Altoona, PA 16602	55,023
Housing Authority of Northumberland County	50 Mahoning Street, Milton, PA 17847	52,154
Housing Authority of the City of Pittsburgh	200 Ross Street, Pittsburgh, PA 15219	45,886
Philadelphia Housing Authority	12 South 23rd Street, 6th Floor, Philadelphia, PA 19103	65,500
Westmoreland County Housing Authority	154 South Greengate Road, Greensburg, PA 15601	57,194
The Housing Authority of the City of Providence	100 Broad Street, Providence, RI 2903	67,465
Housing Authority of the City of Columbia, South Carolina	1917 Harden Street, Columbia, SC 29204	48,329
North Charleston Housing Authority	2170 Ashley Phosphate Road, Suite 700, North Charleston, SC 29406.	50,000
The Housing Authority of the City of Greenville, SC	511 Augusta Street, Greenville, SC 29605	41,683
The Housing Authority of the City of Spartanburg	P.O. Box 2828, 201 Caulder Avenue, Spartanburg, SC 29304	48,667
Jackson Housing Authority	125 Preston Street, Jackson, TN 38301	95,454
Kingsport Housing & Redevelopment Authority	P.O. Box 44, Kingsport, TN 37662	59,338
Memphis Housing Authority	700 Adams Avenue, Memphis, TN 38105	66,950
Metropolitan Development and Housing Agency	701 South Sixth Street, Nashville, TN 37206	129,784
Town of Crossville Housing Authority	P.O. Box 425, Crossville, TN 38557	53,575
Housing Authority of the City of Austin	P.O. Box 6159, Austin, TX 78762	103,076
Housing Authority of the City of Beaumont	1890 Laurel, Beaumont, TX 77701	29,456
Housing Authority of the City of Fort Worth	1201 E. 13th Street, Fort Worth, TX 76102	66,950
Housing Authority of the City of Waco	P.O. Box 978, 4400 Cobbs Drive, Waco, TX 76703	49,729
Housing Authority of the County of Hidalgo	1800 N. Texas, Weslaco, TX 78596	39,338
Houston Housing Authority	2640 Fountainview, Suite 400, Houston, TX 77057	51,500
San Antonio Housing Authority	818 South Flores, San Antonio, TX 78204	280,456
San Marcos Housing Authority	1201 Thrope Lane, San Marcos, TX 78666	39,656
Housing Authority of the County of Salt Lake	3595 South Main Street, Salt Lake, UT 84115	56,228
Bristol Redevelopment and Housing Authority	809 Edmond Street, Bristol, VA 24201	39,441
Chesapeake Redevelopment & Housing Authority	1468 S. Military Highway, Chesapeake, VA 23320	47,448

APPENDIX A—FISCAL YEAR 2008 FUNDING AWARDS FOR THE PH FAMILY SELF-SUFFICIENCY PROGRAM—Continued

Organization	Address/City/State/Zip Code	Amount
Danville Redevelopment and Housing Authority	135 Jones Crossing, Danville, VA 24541	45,894
Fairfax County Redevelopment and Housing Authority	3700 Pender Drive, Suite 300, Fairfax, VA 22030	68,000
Newport News Redevelopment and Housing Authority	P.O. Box 797, 227 27th Street, Newport News, VA 23607	46,000
Norfolk Redevelopment and Housing Authority	201 Granby Street, Norfolk, VA 23510	134,930
Portsmouth Redevelopment & Housing Authority	801 Water Street, 2nd Floor, Portsmouth, VA 23704	52,164
Richmond Redevelopment & Housing Authority	901 Chamberlayne Parkway, Richmond, VA 23261	65,500
Roanoke Redevelopment and Housing Authority	2624 Salem Turnpike, NW., Roanoke, VA 24017	107,435
Waynesboro Redevelopment and Housing Authority	P.O. Box 1138, 1700 New Hope Road, Waynesboro, VA 22980	41,800
Housing Authority of the City of Bremerton	110 Russell Road, Bremerton, WA 98312	45,885
Housing Authority of the City of Tacoma	902 South L Street, Tacoma, WA 98405	56,238
Housing Authority of the City of Vancouver	2500 Main Street, Vancouver, WA 98660	62,000
King County Housing Authority	600 Andover Park West, Tukwila, WA 98188	64,908
Seattle Housing Authority	P.O. Box 19028, 120 6th Avenue North, Seattle, WA 98109	58,947
Housing Authority of the City of Milwaukee	P.O. Box 324, Milwaukee, WI 53201	66,000
Charleston-Kanawha Housing Authority	911 Michael Avenue, Charleston, WV 25312	35,200
Parkersburg Housing Authority	1901 Cameron Ave., Parkersburg, WV 26101	36,503
Wheeling Housing Authority	P.O. Box 2089, 11 Community Street, Wheeling, WV 26003	45,000

[FR Doc. E9–6811 Filed 3–26–09; 8:45 am]
BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5280–N–11]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

DATES: *Effective Date: March 27, 2009.*

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: March 19, 2009.

Mark R. Johnston

Deputy Assistant Secretary for Special Needs.

[FR Doc. E9–6514 Filed 3–26–09; 8:45 am]
BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R1-ES-2009-N0018; 10120-1112-0000-F2]

Endangered and Threatened Wildlife and Plants; Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Issuance of Enhancement of Survival and Incidental Take Permits.

SUMMARY: Between October 1, 2007, and September 30, 2008, the Pacific Region of the Fish and Wildlife Service (Service) issued 10 permits for enhancement of survival or incidental take of threatened and endangered species. These permits were issued pursuant to sections 10(a)(1)(A) and 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). Copies of the permits and associated decision documents are available upon request.

ADDRESSES: Documents are available from the U.S. Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232; facsimile (503) 231-6243. Charges for copying, shipping and handling may apply.

FOR FURTHER INFORMATION CONTACT: Please contact Shelly Sizemore, Administrative Assistant, at the above address and facsimile number or by telephone at (503) 231-2194.

SUPPLEMENTARY INFORMATION: Section 9 of the Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations prohibit the take of wildlife species listed as endangered or threatened. The term ''take'' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed wildlife, or to attempt to engage in any such conduct. We may, under limited circumstances, issue permits to authorize take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing permits for threatened and endangered species are found at 50 CFR 17.32 and 17.22.

Although not required by law or regulation, it is our regional policy to notify the public of permits issued for enhancement of survival or incidental take under Habitat Conservation Plans (HCPs), Safe Harbor Agreements (SHAs), or Candidate Conservation Agreements with Assurances. Within the Pacific Region of the Service, between October 1, 2007, and September 30, 2008, we issued 7 permits for enhancement of survival and 2 permits for incidental take of threatened and endangered species subject to certain conditions set forth therein, pursuant to sections 10(a)(1)(A) and 10(a)(1)(B) of the Act. The enhancement of survival permits are associated with SHAs. The incidental take permits are associated with HCPs. We issued each permit after determining that: (1) the permit application was submitted in good faith; (2) all permit issuance criteria were met, including the requirement that granting the permit will not jeopardize the continued existence of listed species; and (3) the permit was consistent with the purposes and policy set forth in the Act and applicable regulations, including a thorough review of the environmental effects of the action and alternatives pursuant to the National

Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

Permit No.	Applicant	Receipt of application Federal Register notice	Permit issuance date	Name of approved plan or agreement
Habitat Conservation Plans				
TE165744-0	Broughton Land Company	73 FR 11870; March 5, 2008	September 18, 2008	Broughton Land Company Native Fish HCP.
TE194350-0	Castle & Cooke Resorts, LLC	73 FR 39025; July 8, 2008	September 26, 2008	Lanai Meteorological Tower HCP.
Safe Harbor Agreements				
TE134628-0	The Nature Conservancy	71 FR 52816; September 7, 2006	May 1, 2008	Columbia Basin pygmy rabbit (CBPR) template SHA.
TE144770-0	Tom Davis Farms J.V.	72 FR 20557; April 25, 2007	March 27, 2008	CBPR template SHA.
TE144776-0	William Paul Malone	72 FR 20557; April 25, 2007	March 27, 2008	CBPR template SHA.
TE145559-0	Dale R. Pixlee	72 FR 20557; April 25, 2007	March 27, 2008	CBPR template SHA.
TE146609-0	Clements Farms Inc.	72 FR 20557; April 25, 2007	March 27, 2008	CBPR template SHA.
TE146767-0	Heer Brothers J.V.	72 FR 20557; April 25, 2007	March 27, 2008	CBPR template SHA.
TE147289-0	Don W. Roberts	72 FR 20557; April 25, 2007	March 27, 2008	CBPR template SHA.
TE149047-0	David Adams Family LLC.	72 FR 20557; April 25, 2007	March 27, 2008	CBPR template SHA.

Copies of each permit, the accompanying HCP or SHA, and associated documents are available upon request. Decision documents for each permit include a Finding and Recommendation; a Biological Opinion; and either a Record of Decision, Finding of No Significant Impact, or an Environmental Action Statement. Associated documents may also include an Implementing Agreement, Environmental Impact Statement, or Environmental Assessment, as applicable.

February 24, 2009.

Theresa E. Rabot,

Acting Deputy Regional Director, U.S. Fish and Wildlife Service, Region 1, Portland, Oregon.

[FR Doc. E9–6848 Filed 3–26–09; 8:45 am]

BILLING CODE 4310–55–S

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Environmental Impact Statement for the Renewed Application for the Proposed Los Coyotes Band of Cahuilla and Cupeño Indians Fee-to-Trust Acquisition and Casino-Hotel Project, San Bernardino County, CA

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of correction.

SUMMARY: Bureau of Indian Affairs (BIA) is correcting its previous Notice of Intent (NOI) to prepare an environmental impact statement (EIS) for the Los Coyotes Band of Cahuilla and Cupeño Indians' renewed application for a Proposed Fee-to-Trust Acquisition and Casino-Hotel Project in San Bernardino County, California. The corrections include adding cooperating agencies, reducing the acreage proposed for acquisition, and changing certain project details to reflect a smaller proposed development.

DATES: Comments on the scope of the EIS will be accepted until March 20, 2009.

ADDRESSES: You may mail or hand carry written comments to Dale Morris, Regional Director, Pacific Regional Office, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: John Rydzik, Chief, Division of Environment, Cultural Resources Management and Safety, BIA Pacific Region (916) 978–6051.

SUPPLEMENTARY INFORMATION: This notice advises the public that the BIA is correcting its previous NOI to prepare an EIS for the Los Coyotes Band of Cahuilla and Cupeño Indians' renewed application for a Proposed Fee-to-Trust Acquisition and Casino-Hotel Project in San Bernardino County, California, which was published on June 6, 2008 (73 FR 32354). The NOI did not include the names of two additional cooperating agencies; provided a larger acreage of land to be transferred from fee to trust status; and contained some inaccuracies in the details of the proposed casino and hotel project. Therefore, this notice is being published, pursuant to the BIA National Environmental Policy Act (NEPA) Handbook, section 6.4(A)(1), to supplement the June 2008 NOI by:

- Adding the U.S. Environmental Protection Agency and the City of Barstow, California, as cooperating agencies, in addition to the National Indian Gaming Commission and the Los Coyotes Band of Cahuilla and Cupeño Indians;
- Establishing that the proposed land acquisition would involve approximately 23.1 acres, rather than the 45 acres stated in the June 2008 NOI; and
- Correcting the proposed project details represent a smaller proposed development compared to the Los Coyotes Band of Cahuilla Cupeño Indians' original application (specifically, the corrected details are that the proposed project would include a proposed casino of approximately 89,003 square feet, a 160-room hotel, 3,000 parking spaces, and associated food and beverage facilities, retail space, banquet/meeting space and administrative space).

Alternatives identified for analysis include the proposed action, a no-action alternative, a reduced-intensity development alternative, a non-gaming alternative, and an alternative development location alternative. Additional information, including a map of the project site, is available by contacting the person listed in the **FOR FURTHER INFORMATION** section of this notice.

Dated: March 12, 2009.

George T. Skibine,

Deputy Assistant Secretary for Policy and Economic Development.

[FR Doc. E9–6890 Filed 3–26–09; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proclaiming Certain Lands, Shalit Family Property, as an addition to the Pueblo of Laguna Reservation, New Mexico

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Reservation Proclamation.

SUMMARY: This notice informs the public that the Deputy Assistant Secretary for Policy and Economic Development proclaimed approximately 351.8363 acres, more or less, to be added to the Pueblo of Laguna Reservation (Laguna), New Mexico.

FOR FURTHER INFORMATION CONTACT: Ben Burshia, Bureau of Indian Affairs, Division of Real Estate Services, Mail Stop 4639–MIB, 1849 C Street, NW, Washington, DC 20240, telephone (202) 208–7737.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by part 209 of the Departmental Manual, and as assumed by the Deputy Assistant Secretary for Policy and Economic Development.

A proclamation was issued, in accordance with section 7 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 467), for the land described below. The land was proclaimed to be an addition to and part of the Laguna Reservation for the exclusive use of Indians on that reservation who are entitled to reside at the reservation by enrollment or tribal membership.

New Mexico Principal Meridian

Bernalillo County, New Mexico

Section 04, Township 09 North, Range 1 West, N.M.P.M.

A certain tract of land being all of Lots 1, 2, 3, 4; portions of Lots 6, 7 and 8; all of the South half of the Northwest quarter (S/2 of NW/4); all of the North half of the Southwest quarter (N/2 of SW/4); and a portion of the Northwest quarter of the Southeast quarter (NW/4SE/4), all within Section 4, Township 9 North, Range 1 West, N.M.P.M., Bernalillo County, New Mexico, being more particularly described as follows:

Beginning at the northwest corner of the tract herein described, being the northwest corner of said Section 4, T9N, R1W, N.M.P.M., thence, S.89°21′00″ E., 2721.88 feet along the north line of Section 4 to the northeast corner of the tract herein described, being a point on the median line of the Rio Puerco and present west boundary of the Town of Atrisco Grant; thence along said median line of the Rio Puerco the following nineteen courses; thence S.11°59′56″ W., 120.70 feet; thence S.06°47′05″ W., 168.16 feet; thence S.10°06′19″ E., 194.44 feet; thence S.27°16′03″ E., 176.95 feet; thence S.38°17′03″ E., 324.26 feet; thence S.54°00′43″ E., 237.42 feet; thence S.45°38′58″ E., 159.54 feet; thence S.35°17′35″ E., 300.16 feet; thence S.13°52′34″ E., 165.95 feet; thence S.42°23′35″ W., 79.48 feet; thence S.76°37′31″ W., 59.34 feet; thence N.80°02′02″ W., 151.29 feet; thence S.19°20′01″ W., 381.37 feet; thence S.38°42′06″ E., 296.25 feet; thence S.47°03′55″ E., 186.40 feet; thence S.80°58′10″ E., 200.10 feet; thence S.63°54′35″ E., 198.41 feet; thence S.52°31′49″ E., 141.17 feet; thence S.42°13′00″ E., 140.74 feet to a point on the north line of Lot 5, Section 4, T.9N.,R.1 W., N.M.P.M.; thence, leaving said median line of the Rio Puerco, N.89°39′56″ W., 56.31 feet along the north line of said Lot 5 to a point being the northwest corner of said Lot 5; thence, S.00°00′14″ W., 985.46 feet along the west line of said Lot 5 to the southeast corner of the tract herein described; thence S.74°51′31″ W, 665.53 feet to a point on the right-of-way of Cross Road (NMP I–040–3(31)137); thence, along said right-of-way as follows; N.14°46′23″ W., 258.66 feet to a point; thence, S.74°57′04″ W., 25.00 feet to a point; thence, N.15°02′56″ W., 235.29 feet to a point of curvature; thence, along a curve to the left with a radius of 789.00 feet, an arc length of 247.87 feet, a chord bearing N.24°02′56″ W, 246.85 feet to a point, thence, S.56°57′04″ W., 150.00 feet to a point; thence, along a curve to the right with a radius of 639.00 feet, an arc length of 200.75 feet, and a chord bearing S.24°02′56″ E., 199.92 feet to a point of tangency; thence, S.15°02′56″ E., 788.97 feet to a point on the north right-of-way of Interstate Highway 40 (NMP I–040–3(31)137) frontage road; thence, S.60°00′14″ W., 242.09 feet to a point of curvature; thence, along a curve to the right with a radius of 697.0 feet, an arc length of 181.83 feet, a chord bearing S.67°28′39″ W., 181.32 feet to a point of tangency; thence, S.74°57′04″ W., 364.17 feet to a point; thence, leaving said right-of-way, N.14°40′55″ W., 418.56 feet to a point; thence, S.75°19′05″ W., 208.40 feet to a point, thence, S.14°40′55″ E., 419.89 feet to a point on the north right-of-way of said Interstate Highway 40 (NMP I–040–3(31)137) frontage road; thence, S.74°57′04″ W., 646.23 feet along said right-of-way to a point of curvature; thence, along a curve to the right with a radius of 697.00 feet, an arc length of 200.72 feet, a central angle of 16°30′00″ and a chord bearing S.83°12′04″ W., 200.03 feet to a point of tangency; thence, N.88°32′56″ W., 150.00 feet to a point of curvature; thence, along a curve to the left with a radius of 831.00 feet, an arc length of 478.62 feet, a chord bearing S.74°57′04″ W., 472.03 feet to a point of tangency; thence, S.58°27′04″ W., 150.00 feet to a point of curvature; thence, along a curve to the right with a radius of 697.00 feet, an arc length of 200.72 feet, a chord bearing S.66°42′04″ W., 200.03 feet to a point of tangency; thence, S.74°57′04″ W., 567.70 feet to the southwest corner of the tract herein described; thence, leaving said right-of-way, N.00°14′29″ W., 5092.77 feet along the west line of said Section 4 to the point of beginning. Containing an area of 351.8363 acres, more or less.

The above-described lands contain a total of 351.8363 acres, more or less, which are subject to all valid rights, reservations, rights-of-way, and easements of record.

This proclamation does not affect title to the land described above, nor does it affect any valid existing easements for public roads and highways, public utilities, railroads, and pipelines, and any other rights-of-way or reservations of record.

Dated: March 16, 2009.

George T. Skibine,

Deputy Assistant Secretary for Policy and Economic Development.

[FR Doc. E9–6887 Filed 3–26–09; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Tulalip Liquor Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes an amendment to the Tulalip Tribe's Liquor Control Ordinance published in the **Federal Register** September 16, 1977 (42 FR 46612). The amendment regulates and controls the possession and consumption of liquor within the tribal lands. The tribal lands are located in Indian country and this amended Ordinance allows for possession of alcoholic beverages within their boundaries. This Ordinance will increase the ability of the tribal government to control liquor sales, possession and consumption by the community and its members.

DATES: *Effective Date:* This Ordinance is effective on April 27, 2009.

FOR FURTHER INFORMATION CONTACT: Betty Scissons, Tribal Government Services Officer, Northwest Regional Office, 911 NE 11th Ave., 8th Floor, Portland, OR 97232, Telephone: (503) 231–6723, Fax (503) 231–2189; or Elizabeth Colliflower, Office of Indian Services, 1849 C Street NW., Mail Stop 4513–MIB, Washington, DC 20240, Telephone: (202) 513–7640.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice* v. *Rehner,* 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted or amended liquor ordinances for the purpose of regulating liquor transactions in Indian country. The Tulalip Tribes of Washington amended its Tribal Liquor Ordinance by Resolution No. 2008–180 on June 6, 2008. The purpose of this Ordinance is to govern the sale and possession of alcohol within tribal lands of the Tribe. This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. I certify that the Board of Directors duly adopted the amended Liquor Ordinance for the Tulalip Tribes of Washington on June 6, 2008.

Dated: March 16, 2009.

George Skibine,

Deputy Assistant Secretary for Policy and Economic Development.

The amended Liquor Ordinance No. 42 of the Tulalip Tribes of Washington reads as follows:

Tulalip Liquor Ordinance

An ordinance governing sale, distribution, and taxation of liquor within the exterior boundaries of the Tulalip Indian Reservation, establishing a board for control and administration of liquor and regulating the use thereof.

The Board of Directors of the Tribes of Washington in the exercise of said Tribes jurisdiction within the exterior boundaries of the Tulalip Indian Reservation do hereby promulgate and enact the following liquor ordinance pursuant to the powers vested in it by Article VI, Section 1(l) and (m) of the Constitution and By-Laws of the Tulalip Tribe of Washington and the Act of August 15, 1953, 67 Stat. 586, U.S.C. 1161, as follows:

Section 1. Title

This Ordinance shall be known as the Tulalip Liquor Ordinance.

Section 2. Revocation of Prior Ordinance

All Ordinances and Resolutions of the Tulalip Tribes regulating, authorized, prohibiting or in any wise dealing with the sale of liquor heretofore enacted or now in effect are hereby repealed and of no further force and effect.

Section 3. Definitions

''*Liquor*'' means that liquid as at this date defined by the Revised Code of Washington in RCW 66.04.010 (1), (2), (16), (29) and (35).

''*Sale*'' and ''*sell*'' means as now defined as set forth by the Revised Code of Washington in RCW 66.04010 (27).

Such definitions are hereby adopted by reference.

Section 4. Prohibitions

(A) The purchase, sale, and dealing in liquor within the exterior boundaries of the Tulalip Indian Reservation by any person, party, firm, or corporation except pursuant to the control and regulation of the Tulalip Liquor Commission hereby established and declared lawful.

(B) No person shall sell any liquor to any person obviously under the influence of liquor.

(C) No person who is obviously under the influence of liquor may purchase or consume liquor on any premises licensed by the Commission.

(D) A violation of this Section is an infraction punishable by a fine of up to five hundred dollars.

Section 5. Retroactivity

The provisions of this ordinance shall be prospective only from the date of its enactment herein contained shall be deemed to revoke any presently existing valid license or permit or renewal thereof previously issued by the Washington State Liquor Control Board or the exercise of privilege given thereunder.

Section 6. Tulalip Liquor Commission

The Board of Directors of the Tulalip Tribes are hereby constituted as the ''*Tulalip Liquor Commission*'' and empowered to administer this Ordinance, including general control, management and supervision of all liquor sales, places of sale and sales outlets, and to exercise all of the powers and accomplish all of the purposed thereof as hereinafter set forth any do the following acts and things for and on behalf of and in the names of the Tulalip Tribes of Washington:

(A) Adopting and enforcing rules and regulations for the purpose of carrying into effect the provisions of this ordinance the performance of its functions;

(B) Collecting, auditing and issuing fees, licenses, taxes and permits;

(C) Purchasing, warehousing and selling of liquor in the original package;

(D) Executing all contracts, papers and documents in the name of the Tulalip Tribes of Washington or the Tulalip Liquor Commission;

(E) Providing housing for its activities and all necessary equipment and fixtures with which to do business;

(F) Hiring and firing of employees, fixing their duties and delegating to such specific powers and authorities;

(G) Paying all customs, duties, excises, charges and obligation whatsoever related to the business of the Commission;

(H) Performing all matters and things incidental to and necessary to conduct its business and carry out its duties and functions.

Section 7. Funds—Appropriation

All revenue received, funds collected and property acquired by the Commission shall be and are the property of the Tulalip Tribes of Washington and the Commission shall annually account for the same to it and pay the net proceeds of its activities into the general funds of the Tulalip Tribes of Washington subject to appropriation by it to the use of the Commission as the Tribal Board of Directors shall see fit.

There is hereby appropriated to the uses and purposes of said Commission from the tribal funds the sum of $15,000.

Section 8. Powers of the Commission

The Commission hereby empowered to establish and operate a Tulalip Liquor Store within the exterior boundaries of the Tulalip Indian Reservation upon tribal property, not otherwise, and to operate the same and sell liquor thereat for such price as it shall from time to time fix and determine.

Section 9. Excise Tax Levy

There is hereby levied and shall be collected an excise tax upon each sale of liquor, except beer and wine, in whatever package or container, or whether at wholesale or retail, of three (3) cents per fluid ounce or fraction thereof contained in such package container.

Section 10. Tax on Retail Sale

There is hereby levied and shall be collected a tax upon each retail sale of wine and beer in the original package at a rate equal to five percent (5%) of the selling price, which tax shall be paid by the buyer to the seller who shall collect the same and hold it in trust for payment to the Tulalip Liquor Commission in the same manner and at the same time the seller would be required to pay Washington State Retail Sales Tax pursuant to RECW 82.08.150 to the State of Washington if such tax were applicable, but regardless of whether or not such State tax is applicable. All records and tax returns required to be kept by seller by the State of Washington as if such State tax were applicable, shall be kept by the seller and made available for inspection. Such shall be prima facie proof of the amount of tax due and collectable; that the provisions of this paragraph requiring records, tax returns and payment of tax to the Commission shall not be applicable to sales made by the Commission.

Section 11. Tax Remit

The Commission shall remit to the Treasurer of the Tulalip Tribe on the twenty-fifth (25) day of every month to be deposited in the tribal treasury all moneys collected by it in the preceding month by reason of the levy of excise tax. Said tax shall be added to the sale price of liquor sold and be collected from the purchaser thereof the Commission shall also regularly remit for similar deposit to said Treasurer all retail sales taxes collected by it upon sales of beer and wine.

Section 12. Conformity With the State Law

Nothing herein contained shall be construed to supersede the substantive laws of the State of Washington effective within the exterior boundaries of the Tulalip Indian Reservation and, where not inconsistent herewith, the substantive standards of the criminal laws of the State of Washington regarding sale, consumption and use of liquor shall apply.

Section 13. Severability and Construction

If any clause, part, or section of this act shall be adjudged invalid, such judgment shall not affect nor invalidate the remainder of the act, but shall be confined in its operation to the clause, part or section directly involved in the controversy in which such judgment was rendered. If the operation of any clause, part or section of this act shall be held to impair the operation of contract, or to deny to any person any right or protection secured to him by the Constitution of the United States of America, or by the Constitution of the State of Washington it is hereby declared that, had the invalidity of such clause, part or section been considered at the time of the enactment of the act, the remainder of the act would nevertheless have been adopted without such and any and all such invalid clauses, parts or sections.

Section 14. Effective Date

This Ordinance shall be and become effective after thirty (30) days of publication by the United States Department of the Interior's certification in the **Federal Register**.

Section 15. Sovereign Immunity

Nothing in this Ordinance shall be construed as a waiver or limitation of the sovereign immunity of the Tulalip Tribes, except as its sovereign immunity has been waived by the Tulalip Tribes' Tort Claims Ordinance #122.

[FR Doc. E9–6851 Filed 3–26–09; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Fort Sill Apache Tribe Alcohol Control Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes Fort Sill Apache Tribe Alcohol Control Ordinance. The Ordinance regulates and controls the possession, sale, and consumption of liquor within the tribal lands. The tribal lands are located in Indian country and this Ordinance allows for possession and sale of alcoholic beverages within their boundaries. This Ordinance will increase the ability of the tribal government to control the community's liquor distribution and possession, and at the same time will provide an important source of revenue for the continued operation and strengthening of the tribal government and the delivery of tribal services.

DATES: *Effective Date:* This Ordinance is effective on March 27, 2009.

FOR FURTHER INFORMATION CONTACT: Suzanne Chaney, Tribal Government Services Officer, Southern Plains Regional Office, WCD Office Complex, PO Box 368, Anadarko, OK 73005, Telephone: (405) 247–1537, Fax (405) 247–9240; or Elizabeth Colliflower, Office of Indian Services, 1849 C Street NW., Mail Stop 4513–MIB, Washington, DC 20240, Telephone: (202) 513–7627.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice* v. *Rehner,* 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. The Fort Sill Apache Tribe of Oklahoma Tribal Business Committee adopted its Alcohol Control Ordinance by Resolution No. FSABC–2008–2–A on August 21, 2007. This liquor control ordinance amends the first alcohol control ordinance published in the **Federal Register** for the Tribe. The purpose of this Ordinance is to govern the sale, possession, and distribution of alcohol within tribal lands of the Tribe.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. I certify that this Alcohol Control Ordinance of the Fort Sill Apache Tribe of Oklahoma was duly adopted by the Business Committee on August 21, 2007.

Dated: March 17, 2009.

George Skibine,

Deputy Assistant Secretary, for Policy and Economic Development.

The Fort Sill Apache Tribe Alcohol Control Ordinance reads as follows:

Article I—Introduction

Section 3–8–010. Title

This Ordinance shall be known as the ''Fort Sill Apache Tribe Alcohol Control Ordinance.''

Section 3–8–120. Authority

This Ordinance is enacted pursuant to the Act of August 15, 1953. Pub. L. 83–277, 67 Stat. 586, 18 U.S.C. 1161 and Article IV, § 2, of the Constitution and By-Laws of the Fort Sill Apache Tribe of Oklahoma.

Section 3–8–130. Purpose

The purpose of this Ordinance is to regulate and control the manufacture, distribution, possession, and sale of Alcohol on Tribal lands of the Fort Sill Apache Tribe of Oklahoma. The enactment of this Ordinance will enhance the ability of the Tribal government to control all such alcohol-related activities within the jurisdiction of the Tribe and will provide an important source of revenue for the continued operation and strengthening of the Tribal government and the delivery of Tribal government services.

Section 3–8–140. Application of Federal Law.

Federal law forbids the introduction, possession and sale of liquor in Indian Country (18 U.S.C. 1154 and other statutes), except when in conformity both with the laws of the State and the Tribe (18 U.S.C. 1161). As such, compliance with this ordinance shall be in addition to, and not a substitute for, compliance with the laws of the States of Oklahoma, Arizona, or New Mexico.

Section 3–8–150. Administration of Ordinance

The General Council, under its powers vested under the Constitution and Bylaws and this Ordinance, delegates to the Fort Sill Apache Tribe Tax Commission the authority to exercise all of the powers and accomplish all of the purposes as set forth in this Ordinance, which may include the following actions:

A. Adopt and enforce rules and regulations for the purpose of effectuating this Ordinance, which includes the setting of fees;

B. Execute all necessary documents; and

C. Perform all matters and things incidental to and necessary to conduct its business and carry out its duties and functions under this Ordinance.

Section 3–8–160. Sovereign Immunity Preserved

A. The Tribe is immune from suit in any jurisdiction except to the extent that the General Council of the Fort Sill Apache Tribe expressly and unequivocally waives such immunity in writing.

B. Nothing in this Ordinance shall be construed as waiving the sovereign immunity of the Tribe.

Section 3–8–170. Applicability

This Ordinance shall apply to all Tribal enterprises located within Tribal lands consistent with applicable federal Indian liquor laws.

Section 3–8–180. Computation of Time

Unless otherwise provided in this Ordinance, in computing any period of time prescribed or allowed by this Code, the day of the act, event, or default from which the designated period time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday. For the purposes of this Ordinance, the term ''legal holiday'' shall mean all legal holidays under Tribal or Federal law. All papers mailed shall be deemed served at the time of mailing.

Section 3–8–190. Liberal Construction

Provisions of this Ordinance shall be liberally construed to achieve the purposes set forth, whether clearly stated or apparent from the context of the language used herein.

Section 3–8–200. Applicable Taxes

The Tax Commission shall enforce all applicable and lawful taxes imposed on the sale of Alcohol Beverages. The failure of any licensee to pay applicable taxes on the sale of alcohol may subject the licensee to, among other things, the revocation of said license.

Article II—Declaration of Public Policy

Section 3–8–210. Matter of Special Interest

The manufacture, distribution, possession, sale, and consumption of Alcohol Beverages within the jurisdiction of the Fort Sill Apache Tribe of Oklahoma are matters of significant concern and special interest to the Tribe. The General Council hereby declares that the policy of the Tribe is to eliminate the problems associated with unlicensed, unregulated, and unlawful importation, distribution, manufacture, and sale of Alcohol Beverages for commercial purposes and to promote temperance in the use and consumption of Alcohol Beverages by increasing Tribal control over such activities on Tribal land.

Section 3–8–220. Federal Law

The introduction of Alcohol within the jurisdiction of the Tribe is currently prohibited by federal law (18 U.S.C. 1154), except as provided for therein, and the Tribe is expressly delegated the right to determine when and under what conditions Alcohol Beverages shall be permitted thereon (18 U.S.C. 1161).

Section 3–8–230. Need for Regulation

The Tribe finds that the Federal prohibition upon manufacture, distribution, possession, sale, and consumption of Alcohol Beverages has proven ineffective and that the problems associated with same should be addressed by the laws of the Tribe, with all such business activities related thereto subject to the taxing and regulatory authority of the Fort Sill Apache Tribe Tax Commission.

Section 3–8–240. Locations

The Tribe finds that the manufacture, distribution, possession, sale, and consumption of Alcohol Beverages shall be licensed under this Ordinance only where such activity will be conducted within or upon Tribal land.

Section 3–8–250. Definitions

As used in this Ordinance, the following words shall have the following meanings unless the context clearly requires otherwise:

A. ''*Alcohol*'' means the product of distillation of fermented liquid, whether or not rectified or diluted with water, but does not mean ethyl or industrial alcohol, diluted or not, that has been denatured or otherwise rendered unfit for beverage purposes.

B. ''*Alcohol Beverage*'' when used in this Ordinance means, and shall include liquor, beer, or spirits of wine, by whatever name they may be called, and from whatever source and by whatever process they may be produced, and which contain a sufficient percent of alcohol by volume which, by law, makes said beverage subject to regulation as an intoxicating beverage under the laws of the state where the beverage is sold.

C. ''*Applicant*'' means any person who submits an application to the Tax Commission for an Alcohol Beverage license and who has not yet received such a license.

D. ''*Business Committee*'' means the duly elected Business Committee of the Fort Sill Apache Tribe of Oklahoma.

E. ''*Constitution*'' means the Constitution and By-Laws of the Fort Sill Apache Tribe of Oklahoma.

F. ''*General Council*'' means the General council of the Fort Sill Apache Tribe, which is the supreme governing

body of the Fort Sill Apache Tribe, which is composed of the voting membership of the Tribe.

G. ''*License*'' means an Alcohol Beverage license issued by the Fort Sill Apache Tribe Tax Commission authorizing the importation, manufacture, distribution, or sale of Alcohol Beverages for commercial purposes under the provisions of this Ordinance.

H. ''*Licensee*'' means a Tribal enterprise that holds an Alcohol Beverage license issued by the Tax Commission and includes any employee or agent of the Licensee.

I. ''*Liquor store*'' means any store or establishment at which liquor is sold and shall include any and all businesses engaged in the sale of Alcohol Beverages, whether sold as packaged or by the drink.

J. ''*Manufacturer*'' means any person engaged in the manufacture of Alcohol Beverage.

K. ''*Ordinance*'' means the Fort Sill Apache Tribe of Oklahoma Alcohol Beverage Control Ordinance, as hereafter amended.

L. ''*Package*'' means the sale of an Alcohol Beverage by delivery of same by a seller to a purchaser in any container, bag, or receptacle for consumption beyond the premises or the location designated on the license.

M. ''*Public place*'' means and shall include Tribal, County, State, or Federal highways, roads, and rights-of-way; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; public restaurants, buildings, meeting halls, hotels, theaters, retail stores, and business establishments generally open to the public and to which the public is allowed to have unrestricted access; and all other places to which the general public has unrestricted right of access and that are generally used by the public. For the purpose of this Ordinance, ''public place'' shall also include any privately owned business property or establishment that is designed for or may be regularly used by more persons other than the owner of the same but shall not include the private, family residence of any person.

N. ''*Sale*'' and ''*Sell*'' mean the exchange, barter, traffic, furnishing, or giving away for commercial purpose an Alcohol Beverage by any and all means, by whatever name commonly used to describe the same, by any person to another.

O. ''*Tax Commission*'' means the Fort Sill Apache Tribe Tax Commission.

P. ''*Tribal Court*'' means the Federal Court of Indian Offenses or Tribal Courts if established by the Tribe.

Q. ''*Tribal land(s)*'' shall mean and reference the geographic area that includes all land included within the definition of ''Indian country'' as established and described by federal law and that is under the jurisdiction of the Fort Sill Apache Tribe of Oklahoma, including all tribally owned trust lands located within same as are now in existence or may hereafter be added to.

R. ''*Tribal law*'' means the Tribal Constitution and all laws, Ordinances, codes, resolutions, and regulations now and hereafter duly enacted by the Tribe.

S. ''*Tribe*'' shall mean the Fort Sill Apache Tribe of Oklahoma.

Article III—Sales of Alcoholic Beverages

Section 3–8–260. Prohibition of the Unlicensed Sale of Alcohol Beverages

This Ordinance prohibits the importation, manufacture, distribution, or sale of Alcohol Beverages for commercial purposes, other than where conducted by a lawfully issued license in accordance with this Ordinance. The Federal liquor laws are intended to remain applicable to any act or transaction that is not authorized by this Ordinance, and violators shall be subject to Federal law and/or Tribal law.

Section 3–8–280. License Required

Any and all sales of Alcohol Beverages conducted upon Tribal land shall be permitted only where the seller holds a current Alcohol Beverage license duly issued by the Fort Sill Apache Tribe Tax Commission. A licensee has the right to engage only in those Alcohol Beverage transactions expressly authorized by such license in accordance with this Ordinance.

Section 3–8–290. Sales for Cash

All sales of Alcohol Beverages conducted shall be conducted on a cash-only basis, and no credit for said purchase and consumption of same shall be extended to any person, organization, or entity except that this provision does not prohibit the payment of same by use of credit cards acceptable to the seller (including but not limited to VISA, MasterCard, or American Express). Provided however that a Licensee shall have the right to provide complimentary alcoholic beverages to patrons of its gaming facilities.

Section 3–8–300. Personal Consumption

All sales shall be for the personal use and consumption of the purchaser or his/her guest(s). The resale of any Alcohol Beverage purchased within or upon Tribal lands by an unlicensed seller is prohibited.

Section 3–8–310. Consumption of Liquor

No Tribal operator shall permit any person to open or consume liquor on his or her premises or any premises adjacent thereto and in his or her control. The Commission will allow the consumption of liquor and shall identify where liquor may be consumed on Tribal Trust lands.

Article IV—Licensing

Section 3–8–320. Eligibility

Only applicants operating upon Tribal lands shall be eligible to receive a license for the sale of any Alcohol Beverage under this ordinance.

Section 3–8–330. Application Process

The Tax Commission may cause a license to be issued to any applicant as is deemed appropriate and not contrary to the best interests of the Tribe and its Tribal members. Any applicant that desires to be licensed to sell Alcohol Beverages and that meets the eligibility requirements pursuant to this ordinance must apply to the Tax Commission of the Fort Sill Apache Tribe for a license to sell or to serve Alcohol Beverages. Any such person as may be empowered to make such application shall fully and accurately complete an application provided by the Tax Commission, and shall pay such application fee as may be required by the Tax Commission.

Section 3–8–340. Classes of Licenses

The Tax Commission shall have the authority to issue the following classes of Alcohol Beverage licenses:

A. ''*Retail on-sale general license*'' means a license authorizing the licensee to sell Alcohol Beverages at retail to be consumed by the buyer only on the premises or at the location designated in the license. This class includes, but is not limited to, hotels where alcohol beverages may be sold for consumption on the premises and in the rooms of bona fide registered guests.

B. ''*Retail on-sale beer and wine license*'' means a license authorizing the licensee to sell beer and wine at retail to be consumed by the buyer only on the premises or at the location designated in the license. This class includes, but is not limited to, hotels where beer and/or wine may be sold for consumption on the premises and in the rooms of bona fide registered guests.

C. ''*Retail off-sale general license*'' means a license authorizing the licensee to sell Alcohol Beverages at retail to be consumed by the buyer off of the premises or at a location other than the one designated in the license.

D. ''*Retail off-sale beer and wine license*'' means a license authorizing the

licensee to sell beer and wine at retail to be consumed by the buyer off of the premises or at a location other than the one designated in the license.

E. ''*Manufacturers license*'' means a license authorizing the applicant to manufacture Alcohol Beverages for the purpose of sale on or off Tribal land.

F. ''*Temporary license*'' means a license authorizing the sale of Alcohol Beverages on a temporary basis for premises temporarily occupied by the licensee for a picnic, social gathering, or similar occasion. Temporary licenses may not be renewed upon expiration. A new application must be submitted for each such license.

Section 3–8–350. Application Form and Content

An application for a license shall be made to the Tax Commission and shall contain at least the following information:

A. The name and address of the applicant, including the names and addresses of all of the principal officers and directors, and other employees with primary management responsibility related to the sale of Alcohol Beverages;

B. The specific area, location, and/or premise(s) for which the license is applied;

C. The hours that the applicant will sell the Alcohol Beverages;

D. For Temporary Licenses, the dates for which the license is sought to be in effect;

E. The class of Alcohol Beverage license applied for as set forth in Section 3–8–340;

F. Whether the applicant has a state liquor license;

G. A sworn statement by the applicant to the effect that none of the applicant's officers and directors, and employees with primary management responsibility related to the sale of Alcohol Beverage, were ever convicted of a felony under any law, and have not violated and will not violate or cause or permit to be violated any of the provisions of this Ordinance; and

H. The application shall be verified under oath and notarized by a duly authorized representative.

Section 3–8–360. Public Hearing

Upon receipt of an application for issuance or renewal of a license, and the payment of any fees required by the Tax Commission, the Tax Commission shall set the matter for a public hearing. Notice of the time and place of the hearing shall be given to the applicant and the public at least twenty (20) calendar days before the hearing. Notice shall be given to the applicant by prepaid U.S. mail at the address listed in the application. Notice shall be given to the public by publication in a newspaper of general circulation sold on the Tribal lands. The notice published in the newspaper shall include the name of the applicant, whether the action involves a new issuance or renewal, the class of license applied for, and a general description of the area where the alcohol will be or has been sold. At the hearing, the Tax Commission shall hear from any person who wishes to speak for or against the application. The Tax Commission shall have the authority to place time limits on each speaker and limit or prohibit repetitive testimony.

Section 3–8–370. Action on the Application

The Tax Commission shall act on the matter within thirty (30) days of the conclusion of the public hearing. The Tax Commission shall have the authority to deny, approve, or approve with conditions the application, consistent with the laws of the Tribe. Upon approval of an application, the Tax Commission shall issue a license to the applicant in a form to be approved from time to time by the Tax Commission. If the Tax Commission does not act within thirty (30) days the applicant may request a hearing before the business committee.

Section 3–8–380. Denial of License or Renewal

An application for a new license or license renewal may be denied for one or more of the following reasons.

A. The applicant has materially misrepresented facts contained in the application;

B. The applicant is presently not in compliance with this ordinance or other Tribal or Federal laws;

C. Granting of the license (or renewal thereof) would create a threat to the peace, safety, morals, health, or welfare of the Tribe;

D. The applicant has failed to complete the application properly or has failed to tender the appropriate fee.

E. A verdict or judgment of guilty has been entered against or a plea of nolo contendere has been entered by an applicant's officer or director, or an employee with primary management responsibility related to the sale of Alcohol Beverages, to any offense under Federal or State law prohibiting or regulating the sale, use, possession or giving away of Alcohol Beverages.

Section 3–8–390. Temporary Denial

If the application is denied solely on the basis of Section 3–8–380(D) the Tax Commission shall, within fourteen (14) days of receipt of the application, issue a written notice of temporary denial to the applicant. Such notice shall set forth the reasons for denial and shall state that the denial will become permanent if the problem(s) is not corrected within fifteen (15) days following receipt of the notice.

Section 3–8–400. Cure

If an applicant is denied a license, the applicant may cure the deficiency and resubmit the application for consideration. Each re-submission will be treated as a new application for license or renewal of a license.

Section 3–8–410. Investigation

Upon receipt of an application for the issuance, transfer, or renewal of a license, the Tax Commission shall make a thorough investigation to determine whether the applicant and the premises for which a license is applied for qualify for a license and whether the provisions of this Ordinance have been complied with, and shall investigate all matters connected therewith which may affect the public health, welfare, and morals.

Section 3–8–420. Term and Renewal of License

Each license shall be issued for a period not to exceed two (2) years from the original date of issuance and may be renewed thereafter on a year-to-year basis, in compliance with this Ordinance and any rules and/or regulations hereafter adopted by the Tribe. The applicant shall renew a license by, not less than 90 days prior to the license's expiration date, submitting a written renewal application to the Tax Commission on the provided form.

Section 3–8–430. Procedures for Appealing a Denial or Condition of Application

Any applicant for a license or licensee who believes the denial of their license, request for renewal, or condition imposed on their license was wrongfully determined may appeal the decision of the Tax Commission in accordance with the Tax Commission Rules and Regulations. For purposes of appeal, an applicant or licensee shall stand in the place of a ''taxpayer'' as that term is used in the Tax Commission Rules and Regulations appeal procedure. For purposes of appeal, the action being complained of shall stand in the place of the term the ''tax,'' where appropriate, as that term is used in the Tax Commission Rules and Regulations appeal procedure.

Section 3–8–440. Revocation of License

The Tax Commission may initiate action to revoke a license whenever it is brought to the attention of the Commission that a licensee:

A. Has materially misrepresented facts contained in any license application;

B. Is not in compliance with Tribal or federal laws material to the issue of licensing;

C. Failed to comply with any condition of a license, including failure to pay taxes on the sale of Alcohol Beverages or failure to pay a required fee;

D. Has had a verdict, or judgment of guilty entered against, or has had a plea of nolo contendere entered by one of its officers or directors, or managers with primary responsibility over the sale of Alcohol Beverages, as to any offense under Federal or State law prohibiting or regulating the sale, use, or possession, of Alcohol Beverages;

E. Failed to take reasonable steps to correct objectionable conditions constituting a nuisance on the licensed premises or any adjacent area within a reasonable time after receipt of a notice to make such corrections has been received from the Tax Commission; or

F. Has had their Oklahoma, Arizona, or New Mexico liquor license suspended or revoked.

Section 3–8–450. Initiation of Revocation Proceedings

Revocation proceedings are initiated either: (1) By the Tax Commission, on its own motion and through the adoption of an appropriate resolution meeting the requirements of this section; or (2) by any person who files a complaint with the Tax Commission. The complaint shall be in writing and signed by the maker. Both the complaint and resolution shall state facts showing that there are specific grounds under this Ordinance, which would authorize the Tax Commission to revoke the license(s). The Tax Commission shall cause the matter to be set for a hearing before the Tax Commission on a date no later than 30 days from the Commission's receipt of a complaint or adoption of the resolution. Notice of the time, date, and place of the hearing shall be given to the licensee and the public in the same manner as set forth in section 3–8–360. The notice shall state that the licensee has the right to file a written response to the complaint or resolution, verified under oath and signed by the licensee, no later than ten (10) days prior to the hearing date.

Section 3–8–460. Hearing

Any hearing held on any complaint shall be held under such rules and regulations as the Tax Commission may prescribe. Both the licensee and the person filing the complaint shall have the right to present witnesses to testify and to present written documents in support of their positions to the Tax Commission. The Commission shall render its decision within sixty (60) days after the date of the hearing. The decision of the Commission shall be final. Except that any person so aggrieved may file a written appeal to the Business Committee clearly stating the reason for appeal within ten (10) days after the decision of the commission is received.

Section 3–8–470. Delivery of License

Upon revocation of a license, the enterprise shall forthwith deliver up the license to the Tax Commission.

Section 3–8–480. Transferability of Licenses

Alcohol Beverage licenses shall be issued to a specific licensee for use at a single business location (business enterprise) and shall not be transferable for use by any business or location. Separate licenses shall be issued for each of the premises of any business establishment having more than one address.

Section 3–8–490. Posting of License

Every licensee shall post and keep posted its license(s) in a conspicuous place(s) on the licensed premises.

Article V—Powers of Enforcement

Section 3–8–500. Tax Commission Authority

In furtherance of this Ordinance, the Tax Commission shall have exclusive authority to administer and implement this Ordinance and shall have the following powers and duties hereunder;

A. To publish and enforce rules and regulations governing the sale, manufacture, distribution, and possession of Alcohol Beverages within the Tribal lands of the Fort Sill Apache Tribe of Oklahoma;

B. To employ such persons as may be reasonably necessary to perform all administrative and regulatory responsibilities of the Tax Commission hereunder. All such employees shall be Tribal employees;

C. To issue licenses permitting the sale, manufacture, distribution, and possession of Alcohol Beverages within the Tribal lands;

D. To give reasonable notice and to hold hearings on violations of this Ordinance, and for consideration of the issuance or revocation of licenses hereunder;

E. To bring such other actions as may be required to enforce this Ordinance;

F. To prepare and deliver such reports as may be required by law or regulation; and

G. To collect taxes, fees, and penalties as may be required, imposed, or allowed by law or regulation, and to keep accurate books, records, and accounts of the same.

Section 3–8–510. Right of Inspection

Any business premises licensed to manufacture, distribute, or sell alcohol pursuant to this Ordinance shall be open for inspection by the Tax Commission for the purpose of insuring the compliance or noncompliance of the licensee with all provisions of this Ordinance and any applicable Tribal law or regulation.

Section 3–8–520. Limitation on Powers

In the exercise of its powers and duties under this Ordinance, members of the Tax Commission shall not, whether individually or as a whole,

A. Accept any gratuity, compensation or other thing of value from any Alcohol Beverage wholesaler, retailer, or distributor, or from any applicant or licensee of the Tribe;

B. Waive the sovereign immunity of the Fort Sill Apache Tribe, or of any agency, commission, or entity thereof without the express written consent of the General Council of the Fort Sill Apache Tribe.

Article VI—Taxes

Section 3–8–530. Excise Tax

There is hereby levied and shall be collected a tax on each retail and wholesale sale of Alcohol Beverages on Tribal land in the amount of one percent (1%) of the retail sales price. All taxes from the sale of such Alcohol Beverages shall be paid into a separate account under exclusive authority of the Tax Commission. This tax may be adjusted as requested by the Tax Commission and approved by the Business Committee.

Section 3–8–540. Taxes Due

All taxes for the sale of Alcohol Beverages under this Ordinance are due on the 15th day of the month following the end of the calendar quarter for which taxes are due.

Section 3–8–550. Delinquent Taxes

Past due taxes shall accrue interest at the rate of two percent (2%) per month until paid.

Section 3–8–560. Reports

Along with the payment of taxes imposed hereby, the licensee shall submit a quarterly report and accounting of all income from the sale or distribution of Alcohol Beverages, and for the taxes collected.

Section 3–8–570. Audit

All licensees are subject to the review or audit of its books and records relating to the sale of Alcohol Beverages hereunder by the Tax Commission. Such review or audit may be performed periodically by Tax Commission's agents or employees at such times as in the opinion of the Tax Commission such review or audit is appropriate to the proper enforcement of this Ordinance.

Article VII—Rules, Regulations, and Enforcement

Section 3–8–580. Sale or Distribution Without License

Any person who sells or offers for sale or distribution any Alcohol Beverage in violation of this Ordinance, or who operates a business on Tribal land and has Alcohol Beverage(s) for sale in his possession without a license shall be in violation of this Ordinance.

Section 3–8–590. Unlawful Purchase

Any person who purchases any Alcohol Beverage on Tribal lands from a person or business that is not licensed by the Tax Commission to sell Alcohol Beverages shall be in violation of this Ordinance.

Section 3–8–600. Intent To Sell

Any person who keeps or possesses, or causes another to keep or possess, upon his person or any premises within his control, an Alcohol Beverage, with the intent to sell or to distribute the same contrary to the provisions of this Ordinance, shall be in violation of this Ordinance.

Section 3–8–610. Sale to Intoxicated Person

Any person who knowingly sells an Alcohol Beverage to a person who is intoxicated shall be in violation of this Ordinance.

Section 3–8–620. Public Conveyance

Any person engaged in the business of carrying passengers for hire, and every agent, servant, or employee of such person who shall knowingly permit any person to drink an Alcohol Beverage in any such public conveyance shall be in violation of this Ordinance.

Section 3–8–630. Age of Consumption

No person under the age to twenty-one (21) years shall possess or consume any Alcohol Beverage on Tribal lands.

Section 3–8–640. Serving Underage Person

No person shall serve an Alcohol Beverage to a person under the age of 21 or permit any such person to consume alcohol on the premises or on any premises under his control. Any licensee violating this section shall be guilty of a separate violation of this Ordinance for each and every drink served and/or consumed.

Section 3–8–650. False Identification

Any person who purchases or who attempts to purchase an Alcohol Beverage through the use of false, or altered identification that falsely purports to show the person to be over the age of 21 years shall be in violation of this Ordinance.

Section 3–8–660. Documentation of Age

When requested by a seller of Alcohol Beverages, any person shall be required to present proper and satisfactory documentation of the bearer's age, signature, and photograph. For purposes of this Ordinance, proper and satisfactory documentation shall include one or more of the following:

A. Drivers license or personal identification card issued by any state department of motor vehicles or tribal or federal government agency;

B. United States active duty military credentials;

C. Passport.

Section 3–8–670. General Penalties

Any person adjudged to be in violation of this Ordinance, including any lawful regulation promulgated pursuant thereto, shall be subject to a civil penalty not more than Five Hundred Dollars ($500.00) for each such violation. The Tax Commission may adopt by resolution a separate schedule for fines for each type of violation, taking into account the seriousness and threat the violation may pose to the general health and welfare. Such schedule may also provide, in the case of repeated violations, for imposition of monetary penalties greater than the Five Hundred Dollars ($500.00) limitation set forth above. The penalties provided for herein shall be in addition to any criminal penalties that may be imposed under a separate Ordinance, adopted by the Tribe.

Section 3–8–680. Initiation of Action

Any violation of this Ordinance shall constitute a public nuisance. The Tax Commission may initiate and maintain an action in Tribal court or any court of competent jurisdiction to abate and permanently enjoin any nuisance declared under this Ordinance. Any action taken under this section shall be in addition to any other penalties provided for in this Ordinance. The plaintiff shall not be required to give bond in this action.

Section 3–8–690. Contraband; Seizure; Forfeiture

A. All Alcohol Beverages within tribal lands held, owned, or possessed by any person or licensee operating in violation of this Ordinance is hereby declared to be contraband and subject to seizure and forfeiture to the Tribe.

B. Seizure of contraband as defined in this Ordinance shall be done by law enforcement and all such contraband seized shall be inventoried and maintained by law enforcement pending final order of the Tax Commission and any appeals there from as may be filed with the Business Committee. The owner of the contraband seized may alternatively request that the contraband seized be sold and the proceeds received there from be maintained by law enforcement pending final order of the Tax Commission and any appeals there from. The proceeds are subject to forfeiture in lieu of the seized contraband.

C. Within ten days following the seizure of the contraband, a hearing shall be held by the Tax Commission, at which time the operator or owner of the contraband shall be given an opportunity to present evidence in defense of his or her activities.

D. Notice of the hearing of at least 10 days shall be given to the person from whom the property was seized, if known. If the person is unknown, notice of the hearing shall be posted at the place where the contraband was seized and at other public places on tribal lands. The notice shall describe the property seized, and the time, place, and cause of seizure and give the name and place of residence, if known, of the person from whom the property was seized. If upon the hearing, the evidence warrants, or, if no person appears as a claimant, the Tax Commission shall thereupon enter a judgment of forfeiture, and all such property shall be the property of the Fort Sill Apache Tribe. If upon the hearing the evidence does not warrant forfeiture, the seized contraband shall be immediately returned to the owner.

Article VIII—Nuisance and Abatement.

Section 3–8–700. Nuisance

Any room, house, building, vehicle, structure or other place where Alcohol Beverages are sold, manufactured, bartered, exchanged, given away, furnished, or otherwise possessed or disposed of in violation of this Ordinance, or of any other Tribal law related to the transportation, possession, distribution or sale of Alcohol Beverages, and including all property kept therein, or thereon, and use in, or in connection with the violation is hereby declared to be a nuisance upon any second or subsequent violation of the same.

Section 3–8–710. Action To Abate Nuisance

Upon a finding that any such place or activity is a nuisance under the provision of this Ordinance, the Tribe or the Tax Commission may bring a civil action in the Tribal Court to abate and to perpetually enjoin any such activity declared to be a nuisance. Such injunctive relief may include a closure of any business or other use of the property for up to one (1) year from the date of the order, or until the owner, lessee or tenant shall give bond of no less than Twenty-Five Thousand dollars ($25,000) payable to the Tribe and conditioned that no further violation of this Ordinance or other Tribal Alcohol Beverage law and by payment of all fines, costs and assessments against him/her. If any condition of the bond is violated, the bond may be recovered and proceeds delivered to the Tax Commission for the use of the Tribe. Any action taken under this section shall be in addition to any other penalties provided for in this Ordinance.

Article IX—Revenue and Reporting

Section 3–8–720. Use and Appropriation of Revenue Received

All revenue received by the Tax Commission under this Ordinance, from whatever sources, shall be expended first for the administrative costs incurred in the administration and enforcement of this Ordinance. Any excess funds shall be subject to and available to appropriation by the Tribe for essential governmental, and social services, related to drug and alcohol education, counseling and treatment.

Section 3–8–730. Audit

Tax Commission handling of revenue received under this ordinance is subject to review and audit as a part of the annual financial audit of the Tax Commission.

Section 3–8–740. Reports

The Tax Commission shall submit to the Business Committee a quarterly report and an accounting of all revenue received and expended pursuant to this Ordinance.

Article X—Miscellaneous

Section 3–8–750. Severability

If any provision or application of this Ordinance is found invalid and or unenforceable, such determination shall not be held to render ineffectual any of the remaining provisions or applications of this Ordinance not specifically identified thereby, or to render such provision to be inapplicable to other persons or circumstances.

Section 3–8–760. Construction

Nothing in this ordinance shall be construed to diminish or impair in any way the rights or sovereign powers of the Fort Sill Apache Tribe.

Section 3–8–770. Effective Date

This Ordinance shall be effective upon certification by the Secretary of the Interior, publication in the **Federal Register** and recorded in the office of the Clerk of the Tribal Court.

Section 3–8–780. Prior Law Repealed

Any and all prior enactments of the Fort Sill Apache Tribe that are inconsistent with the provisions of this Ordinance are hereby rescinded.

Section 3–8–770. Amendment

The Fort Sill Apache Tribe through its General Council, pursuant to its Constitution delegates to the Fort Sill Apache Tribe Business Committee the authority to amend the provisions of the foregoing Alcohol Control Ordinance.

Approved by the Business Committee of the Fort Sill Apache Tribe of Oklahoma this 21st day of August 2007, by a vote of 4 For 0 Against 0 Abstained.

Chairman _____

Secretary Treasurer _____

[FR Doc. E9–6853 Filed 3–26–09; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNV010000.L19900000.EX0000; 09–08807; TAS: 14X1109]

Notice of Availability of Final Supplemental Environmental Impact Statement for the Betze Pit Expansion Project, Eureka and Elko Counties, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321 *et seq.* and 43 CFR 3809), the Bureau of Land Management (BLM), Elko District Office has prepared a Final Supplemental Environmental Impact Statement (SEIS) for Barrick Goldstrike Mine's proposed Betze Pit Expansion Project.

DATES: The BLM will issue a Record of Decision (ROD) on the proposed project after a minimum of 30 days following the Environmental Protection Agency's publication of a Notice of Availability of this Final SEIS in the **Federal Register**.

ADDRESSES: Copies of the SEIS (compact disk or hard copy) are available at the BLM Elko District Office, 3900 E. Idaho, Elko, Nevada during regular business hours of 7:30 a.m. to 4:30 p.m., Monday through Friday, except holidays. The SEIS is also available on-line at *http://www.blm.gov/nv/st/en/fo/elko_field_office.html*, Elko District Office.

FOR FURTHER INFORMATION CONTACT: Kirk Laird, (775) 753–0200.

SUPPLEMENTARY INFORMATION: The Betze Pit Expansion Project is an amendment to the mine plan for the Betze Project, an ongoing open pit gold mine on the Carlin Trend in Eureka and Elko counties. The proposed mine plan amendment includes expanding the existing open pit and constructing a new waste rock facility and a new tailings facility. Current mining operations at the Betze Project are expected to end in 2011, with processing operations ending in 2020. The proposed Betze Pit Expansion Project would extend mining for 4 years and processing for an additional 5 years. Alternatives developed and analyzed in the SEIS include expanding the existing Bazza Waste Rock Facility (instead of constructing the proposed Clydesdale Waste Rock Facility) and the No Action alternatives. Alternatives considered but eliminated from detailed analysis include mining by underground methods rather than open pit, modifying the proposed Clydesdale Waste Rock Facility or constructing an offsite waste rock facility to reduce impacts to deer migration corridors, and a reduced tailings facility alternative. Mitigation measures, including reclamation scheduling to maintain a deer migration corridor, and designed landscape reclamation of the proposed Clydesdale Waste Rock Facility, were adopted by the proponent during the process, becoming part of the proposed action.

The Draft SEIS was released for public review on August 22, 2008, for a 45-day

comment period, and a public comment meeting was held in Elko, Nevada on September 10, 2008. The Final SEIS is published in an abbreviated format, and includes comments on the Draft SEIS and BLM's responses along with resultant changes in the document.

The documents will be available at *http://www.blm.gov/nv/st/en/fo/elko_field_office.html*, Elko District Office for at least 30-days, after which BLM will issue a Record of Decision on the proposed mine expansion.

(Authority: 43 CFR 3809)

Kenneth E. Miller,

District Manager, Elko.

[FR Doc. E9–6768 Filed 3–26–09; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

[Docket No. MMS–2008–MRM–0029]

Agency Information Collection Activities: Proposed Collection, Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of an extension of a currently approved information collection (OMB Control Number 1010–0103).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to the Office of Management and Budget (OMB) an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR parts 202, 206, and 207. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements.

DATES: Submit written comments on or before *April 27, 2009.*

ADDRESSES: Submit written comments by either FAX (202) 395–7245 or e-mail (*OIRA_Docket@omb.eop.gov*) directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (OMB Control Number 1010–0103).

Please submit copies of your comments to MMS by one of the following methods:

- Electronically go to *http://www.regulations.gov*. In the ''Comment or Submission'' column, enter ''MMS–2008–MRM–0029'' to view supporting and related materials for this ICR. Click on ''Send a comment or submission'' link to submit public comments. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link. All comments submitted will be posted to the docket.
- Mail comments to Hyla Hurst, Regulatory Specialist, Minerals Management Service, Minerals Revenue Management, P.O. Box 25165, MS 302B2, Denver, Colorado 80225. Please reference ICR 1010–0103 in your comments.
- Hand-carry comments or use an overnight courier service. Our courier address is Building 85, Room A–614, Denver Federal Center, West 6th Ave. and Kipling St., Denver, Colorado 80225. Please reference ICR 1010–0103 in your comments.

FOR FURTHER INFORMATION CONTACT: Hyla Hurst, telephone (303) 231–3495, or e-mail *Hyla.Hurst@mms.gov*. You may also contact Hyla Hurst to obtain copies, at no cost, of (1) the ICR, (2) any associated forms, and (3) the regulations that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR parts 202, 206, and 207, Indian Oil and Gas Valuation.

OMB Control Number: 1010–0103.

Bureau Form Number: Forms MMS–4109, MMS–4110, MMS–4295, MMS–4410, and MMS–4411.

Abstract: The Secretary of the U.S. Department of the Interior is responsible for mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary is required by various laws to manage mineral resource production on Federal and Indian lands and the OCS, collect the royalties and other mineral revenues due, and distribute the funds in accordance with those laws. Applicable laws pertaining to mineral leases on Federal and Indian lands are posted on our Web site at *http://www.mrm.mms.gov/Laws_R_D/PublicLawsAMR.htm*.

The Secretary also has a trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. The MMS performs the minerals revenue management functions and assists the Secretary in carrying out the Department's trust responsibility for Indian lands.

When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share in an amount or value of production from the leased lands. The lessee is required to report various kinds of information to the lessor relative to the disposition of the leased minerals. Such information is generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling of such minerals. We collect this information to ensure that royalties are accurately valued and appropriately paid.

Information collections covered in this ICR are found at 30 CFR part 202, subparts C and J, which pertain to royalties; part 206, subparts B and E, which govern the valuation of oil and gas produced from leases on Indian lands; and part 207, which pertains to recordkeeping. Indian tribes and individual Indian mineral owners receive all royalties generated from their lands. Determining product valuation is essential to ensure that Indian tribes and individual Indian mineral owners receive payment on the full value of the minerals removed from their lands. Failure to collect the data described in this information collection could result in the undervaluation of leased minerals on Indian lands. All data reported is subject to subsequent audit and adjustment.

Indian Oil

Regulations at 30 CFR part 206, subpart B, govern the valuation for royalty purposes of all oil produced from Indian oil and gas leases (tribal and allotted), except leases on the Osage Indian Reservation, and must be consistent with mineral leasing laws, other applicable laws, and lease terms. Generally, the regulations provide that lessees determine the value of oil based upon the higher of (1) the gross proceeds under an arm's-length contract; or (2) major portion analysis.

These oil valuation methods are eligible for applicable transportation allowances. From information collected on Form MMS–4110, Oil Transportation Allowance Report, (1) MMS verifies transportation allowances to determine if the lessee reported and paid the proper royalty amount; and (2) MMS and tribal personnel evaluate whether the transportation allowances reported and claimed by lessees are within regulatory allowance limitations and are calculated in accordance with applicable regulations.

Indian Gas

Regulations at 30 CFR part 206, subpart E, govern the valuation for royalty purposes of natural gas produced from Indian oil and gas leases (tribal and allotted). The regulations

apply to all gas production from Indian oil and gas leases, except leases on the Osage Indian Reservation.

Most Indian leases contain the requirement to perform accounting for comparison (dual accounting) for gas produced from the lease. Lessees must elect to perform actual dual accounting as defined in 30 CFR 206.176 or alternative dual accounting as defined in 30 CFR 206.173. Lessees use Form MMS–4410, Accounting for Comparison [Dual Accounting], to certify that dual accounting is not required on an Indian lease or to make an election for actual or alternative dual accounting for Indian leases.

The regulations require lessees to submit Form MMS–4411, Safety Net Report, when gas production from an Indian oil or gas lease is sold beyond the first index pricing point. The safety net calculation establishes the minimum value, for royalty purposes, of natural gas production from Indian oil and gas leases. This reporting requirement ensures that Indian lessors receive all royalties due and aids MMS compliance efforts.

From information collected on Form MMS–4295, Gas Transportation Allowance Report, (1) MMS verifies transportation allowances to determine if the lessee reported and paid the proper royalty amount; and (2) MMS and tribal personnel evaluate whether the transportation allowances reported and claimed by lessees are within regulatory allowance limitations and are calculated in accordance with applicable regulations.

From information collected on Form MMS–4109, Gas Processing Allowance Summary Report, (1) MMS verifies processing allowances to determine if the lessee reported and paid the proper royalty amount; and (2) MMS and tribal personnel evaluate whether the processing allowances reported and claimed by lessees are within regulatory allowance limitations and are calculated in accordance with applicable regulations.

Indian Oil and Gas

Form MMS–4393, Request to Exceed Regulatory Allowance Limitation, is used for both Federal and Indian leases. Most of the burden hours are incurred on Federal leases; therefore, the form is approved under ICR 1010–0136, pertaining to Federal oil and gas leases. However, we include a discussion of the form in this ICR, as well as the burden hours for Indian leases. To request permission to exceed a regulatory allowance limit, lessees must (1) submit a letter to MMS explaining why a higher allowance limit is necessary; and (2) provide supporting documentation, including a completed Form MMS–4393. This form provides MMS with the data necessary to make a decision whether to approve or deny the request and track deductions on royalty reports.

Summary

The MMS is requesting OMB's approval to continue to collect this information. Not collecting this information would limit the Secretary's ability to discharge his/her duties and may also result in loss of royalty payments to Indian tribes and individual Indian mineral owners. Proprietary information submitted to MMS under this collection is protected, and no items of a sensitive nature are collected. The requirement to respond is mandatory for Form MMS–4410, Accounting for Comparison [Dual Accounting], and for Form MMS–4411, Safety Net Report, under certain circumstances. For all other forms in this collection, the requirement to respond is required to obtain a benefit.

Frequency of Response: Annually and on occasion.

Estimated Number and Description of Respondents: 302 potential Indian lessees.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: 1,074 hours.

We have not included in our estimates certain requirements performed in the normal course of business and considered usual and customary. The following chart shows the estimated burden hours by CFR section and paragraph:

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS

30 CFR	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
202—ROYALTIES Subpart C—Federal and Indian Oil				
202.101	Standards for reporting and paying royalties ..... Oil volumes are to be reported in barrels of clean oil of 42 standard U.S. gallons (231 cubic inches each) at 60 °F. . . .	Burden covered under OMB Control Number 1010–0140 (expires 11/30/2009). Burden covered under § 210.52.		
Subpart J—Gas Production From Indian Leases				
202.551(b)	How do I determine the volume of production for which I must pay royalty if my lease is not in an approved Federal unit or communitization agreement (AFA)?. (b) You and all other persons paying royalties on the lease must report and pay royalties based on your takes. . . .	Burden covered under OMB Control Number 1010–0140. Burden covered under § 210.52.		
202.551(c)	(c) You and all other persons paying royalties on the lease may ask MMS for permission . . . . to report entitlements	1	1	1
202.558(a) and (b)	What standards do I use to report and pay royalties on gas?. (a) You must report gas volumes as follows: . . .	Burden covered under OMB Control Number 1010–0140. Burden covered under § 210.52.		

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
	(b) You must report residue gas and gas plant product volumes as follows: . . .			
	206—PRODUCT VALUATION Subpart B—Indian Oil			
206.56(b)(2)	Transportation allowances—general (b)(2) Upon request of a lessee, MMS may approve a transportation allowance deduction in excess of the limitation prescribed by paragraph (b)(1) of this section. . . . An application for exception (using Form MMS–4393, Request to Exceed Regulatory Allowance Limitation) must contain all relevant and supporting documentation necessary for MMS to make a determination. . . .	4	1	4
206.57(a)(1)(i)	Determination of transportation allowances (a) *Arm's-length transportation contracts* (1)(i). . . The lessee shall have the burden of demonstrating that its contract is arm's-length.	AUDIT PROCESS. See note.		
206.57(a)(1)(i)	(a) *Arm's-length transportation contracts* (1)(i) . . . Before any deduction may be taken, the lessee must submit a completed page one of Form MMS–4110 (and Schedule 1), Oil Transportation Allowance Report . . .	Burden covered under § 206.57(c)(1)(i) and (iii).		
206.57(a)(1)(iii)	(a) *Arm's-length transportation contracts* (1)(iii) . . . When MMS determines that the value of the transportation may be unreasonable, MMS will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's transportation costs.	AUDIT PROCESS. See note.		
206.57(a)(2)(i)	(a) *Arm's-length transportation contracts* (2)(i) . . . Except as provided in this paragraph, no allowance may be taken for the costs of transporting lease production which is not royalty-bearing without MMS approval.	Burden covered under § 206.57(a)(3).		
206.57(a)(2)(ii)	(a) *Arm's-length transportation contracts* (2)(ii) Notwithstanding the requirements of paragraph (i), the lessee may propose to MMS a cost allocation method on the basis of the values of the products transported. . . .	20	1	20
206.57(a)(3)	(a) *Arm's-length transportation contracts* (3) If an arm's-length transportation contract includes both gaseous and liquid products, and the transportation costs attributable to each product cannot be determined from the contract, the lessee shall propose an allocation procedure to MMS. . . . The lessee shall submit all available data to support its proposal. . . .	40	1	40
206.57(b)(1)	(b) *Non-arm's-length or no contract* (1) . . . A transportation allowance may be claimed retroactively for a period of not more than 3 months prior to the first day of the month that Form MMS–4110 is filed with MMS, unless MMS approves a longer period upon a showing of good cause by the lessee. . . .	Burden covered under § 206.57(c)(2)(i) and (iii).		
206.57(b)(1)	(b) *Non-arm's-length or no contract* (1) . . . When necessary or appropriate, MMS may direct a lessee to modify its actual transportation allowance deduction.	Burden covered under OMB Control Number 1010–0140. Burden covered under § 210.52.		
206.57(b)(2)(iv)	(b) *Non-arm's-length or no contract*	20	1	20

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
	(2)(iv) . . . After a lessee has elected to use either method for a transportation system, the lessee may not later elect to change to the other alternative without approval of MMS.			
206.57(b)(2)(iv)(A)	(b) *Non-arm's-length or no contract* (2)(iv)(A) . . . After an election is made, the lessee may not change methods without MMS approval. . . .	20	1	20
206.57(b)(3)(i)	(b) *Non-arm's-length or no contract* (3)(i) . . . Except as provided in this paragraph, the lessee may not take an allowance for transporting lease production which is not royalty bearing without MMS approval.	40	1	40
206.57(b)(3)(ii)	(b) *Non-arm's-length or no contract* (3)(ii) Notwithstanding the requirements of paragraph (i), the lessee may propose to MMS a cost allocation method on the basis of the values of the products transported. . . .	20	1	20
206.57(b)(4)	(b) *Non-arm's-length or no contract* (4) Where both gaseous and liquid products are transported through the same transportation system, the lessee shall propose a cost allocation procedure to MMS. . . . The lessee shall submit all available data to support its proposal. . . .	20	1	20
206.57(b)(5)	(b) *Non-arm's-length or no contract* (5) A lessee may apply to MMS for an exception from the requirement that it compute actual costs in accordance with paragraphs (b)(1) through (b)(4) of this section. . . .	20	1	20
206.57(c)(1)(i)	(c) *Reporting requirements* (1) *Arm's-length contracts*. (i) With the exception of those transportation allowances specified in paragraphs (c)(1)(v) and (c)(1)(vi) of this section, the lessee shall submit page one of the initial Form MMS–4110 (and Schedule 1), Oil Transportation Allowance Report, prior to, or at the same time as, the transportation allowance determined, under an arm's-length contract, is reported on Form MMS–2014, Report of Sales and Royalty Remittance. . . .	4	4	16
206.57(c)(1)(iii)	(c) *Reporting requirements* (1) *Arm's-length contracts*. (iii) After the initial reporting period and for succeeding reporting periods, lessees must submit page one of Form MMS–4110 (and Schedule 1) within 3 months after the end of the calendar year, or after the applicable contract or rate terminates or is modified or amended, whichever is earlier, unless MMS approves a longer period (during which period the lessee shall continue to use the allowance from the previous reporting period).	4	4	16
206.57(c)(1)(iv)	(c) *Reporting requirements* (1) *Arm's-length contracts*. (iv) MMS may require that a lessee submit arm's-length transportation contracts, production agreements, operating agreements, and related documents. Documents shall be submitted within a reasonable time, as determined by MMS.	AUDIT PROCESS. See note.		
206.57(c)(2)(i)	(c) *Reporting requirements* (2) *Non-arm's-length or no contract.*	6	1	6

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
	(i) With the exception of those transportation allowances specified in paragraphs (c)(2)(v), (c)(2)(vii) and (c)(2)(viii) of this section, the lessee shall submit an initial Form MMS–4110 prior to, or at the same time as, the transportation allowance determined under a non-arm's-length contract or no-contract situation is reported on Form MMS–2014. . . . The initial report may be based upon estimated costs.			
206.57(c)(2)(iii)	(c) *Reporting requirements* ..... (2) *Non-arm's-length or no contract.* (iii) For calendar-year reporting periods succeeding the initial reporting period, the lessee shall submit a completed Form MMS–4110 containing the actual costs for the previous reporting period. If oil transportation is continuing, the lessee shall include on Form MMS–4110 its estimated costs for the next calendar year. . . . MMS must receive the Form MMS–4110 within 3 months after the end of the previous reporting period, unless MMS approves a longer period (during which period the lessee shall continue to use the allowance from the previous reporting period).	6	3	18
206.57(c)(2)(iv)	(c) Reporting requirements ..... (2) Non-arm's-length or no contract. (iv) For new transportation facilities or arrangements, the lessee's initial Form MMS–4110 shall include estimates of the allowable oil transportation costs for the applicable period. . . .	Burden covered under § 206.57(c)(2)(i).		
206.57(c)(2)(v)	(c) *Reporting requirements* ..... (2) *Non-arm's-length or no contract.* (v) . . . only those allowances that have been approved by MMS in writing . . .	Burden covered under § 206.57(c)(2)(i).		
206.57(c)(2)(vi)	(c) *Reporting requirements* ..... (2) *Non-arm's-length or no contract.* (vi) Upon request by MMS, the lessee shall submit all data used to prepare its Form MMS–4110. The data shall be provided within a reasonable period of time, as determined by MMS.	AUDIT PROCESS. See note.		
206.57(c)(4) and (e)(2)	(c) *Reporting requirements* ..... (4) Transportation allowances must be reported as a separate line item on Form MMS–2014, . . . (e) *Adjustments.* (2) For lessees transporting production from Indian leases, the lessee must submit a corrected Form MMS–2014 to reflect actual costs, . . .	Burden covered under OMB Control Number 1010–0140. Burden covered under § 210.52.		
206.59	May I ask MMS for valuation guidance? ..... You may ask MMS for guidance in determining value. You may propose a value method to MMS. Submit all available data related to your proposal and any additional information MMS deems necessary. . . .	20	1	20
206.61(a) and (b)	What records must I keep and produce? ..... (a) On request, you must make available sales, volume, and transportation data for production you sold, purchased, or obtained from the field or area. You must make this data available to MMS, Indian representatives, or other authorized persons. (b) You must retain all data relevant to the determination of royalty value. . . .	AUDIT PROCESS. See note.		

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
	206—PRODUCT VALUATION **Subpart E—Indian Gas**			
206.172(b)(1)(ii)	How do I value gas produced from leases in an index zone?. (b) *Valuing residue gas and gas before processing.* (1)(ii) Gas production that you certify on Form MMS–4410, . . . is not processed before it flows into a pipeline with an index but which may be processed later; . . .	4	25	100
206.172(e)(6)(i) and (iii)	(e) *Determining the minimum value for royalty purposes of gas sold beyond the first index pricing point.* (6)(i) You must report the safety net price for each index zone to MMS on Form MMS–4411, Safety Net Report, no later than June 30 following each calendar year; . . . (iii) MMS may order you to amend your safety net price within one year from the date your Form MMS–4411 is due or is filed, whichever is later. . . .	3	10	30
206.172(e)(6)(ii)	(e) *Determining the minimum value for royalty purposes of gas sold beyond the first index pricing point.* (6)(ii) You must pay and report on Form MMS–2014 additional royalties due no later than June 30 following each calendar year; . . .	Burden covered under OMB Control Number 1010–0140. Burden covered under § 210.52.		
206.172(f)(1)(ii), (f)(2), and (f)(3)	(f) *Excluding some or all tribal leases from valuation under this section.* (1) An Indian tribe may ask MMS to exclude some or all of its leases from valuation under this section. . . . (ii) If an Indian tribe requests exclusion from an index zone for less than all of its leases, MMS will approve the request only if the excluded leases may be segregated into one or more groups based on separate fields within the reservation. (2) An Indian tribe may ask MMS to terminate exclusion of its leases from valuation under this section. . . . (3) The Indian tribe's request to MMS under either paragraph (f)(1) or (2) of this section must be in the form of a tribal resolution. . . .	40	1	40
206.173(a)(1)	How do I calculate the alternative methodology for dual accounting?. (a) *Electing a dual accounting method.* (1) . . . You may elect to perform the dual accounting calculation according to either § 206.176(a) (called actual dual accounting), or paragraph (b) of this section (called the alternative methodology for dual accounting).	2	19	38
206.173(a)(2)	(a) *Electing a dual accounting method* (2) You must make a separate election to use the alternative methodology for dual accounting for your Indian leases in each MMS-designated area. . . .	Burden covered under § 206.173(a)(1).		
206.174(a)(4)(ii)	How do I value gas production when an index-based method cannot be used?. (a) *Situations in which an index-based method cannot be used.* (4)(ii) If the major portion value is higher, you must submit an amended Form MMS–2014 to MMS by the due date specified in the written notice from MMS of the major portion value. . . .	Burden covered under OMB Control Number 1010–0140. Burden covered under § 210.52.		

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
206.174(b)(1)(i) and (iii); (b)(2); (d)(2)	(b) *Arm's-length contracts* ..... (1)(i) You have the burden of demonstrating that your contract is arm's-length. . . . (iii) . . . In these circumstances, MMS will notify you and give you an opportunity to provide written information justifying your value. . . . (2) MMS may require you to certify that your arm's-length contract provisions include all of the consideration the buyer pays, either directly or indirectly, for the gas, residue gas, or gas plant product. (d) *Supporting data.* (2) You must make all such data available upon request to the authorized MMS or Indian representatives, to the Office of the Inspector General of the Department, or other authorized persons. . . .	AUDIT PROCESS. See note.		
206.174(d)	(d) *Supporting data* If you determine the value of production under paragraph (c) of this section, you must retain all data relevant to determination of royalty value.	Burden covered under OMB Control Number 1010–0140.		
206.174(f)	(f) *Value guidance* You may ask MMS for guidance in determining value. You may propose a valuation method to MMS. Submit all available data related to your proposal and any additional information MMS deems necessary. . . .?.	40	1	40
206.175(d)(4)	How do I determine quantities and qualities of production for computing royalties?. (d)(4) You may request MMS approval of other methods for determining the quantity of residue gas and gas plant products allocable to each lease. . . .	20	1	20
206.176(b)	How do I perform accounting for comparison? ..... (b) If you are required to account for comparison, you may elect to use the alternative dual accounting methodology provided for in § 206.173 instead of the provisions in paragraph (a) of this section.	Burden covered under § 206.173(a)(1).		
206.176(c)	(c) . . . If you do not perform dual accounting, you must certify to MMS that gas flows into such a pipeline before it is processed.	Burden covered under § 206.172(b)(1)(ii)		
Transportation Allowances				
206.177(c)(2) and (c)(3)	What general requirements regarding transportation allowances apply to me?. (c)(2) If you ask MMS, MMS may approve a transportation allowance deduction in excess of the limitation in paragraph (c)(1) of this section. . . . (3) Your application for exception (using Form MMS–4393, Request to Exceed Regulatory Allowance Limitation) must contain all relevant and supporting documentation necessary for MMS to make a determination.	Burden covered under § 206.56(b)(2).		
206.178(a)(1)(i)	How do I determine a transportation allowance? ..... (a) *Determining a transportation allowance under an arm's-length contract.* (1)(i) . . . You are required to submit to MMS a copy of your arm's-length transportation contract(s) and all subsequent amendments to the contract(s) within 2 months of the date MMS receives your report which claims the allowance on the Form MMS–2014.	1	25	25
206.178(a)(1)(iii)	(a) *Determining a transportation allowance under an arm's-length contract.*	AUDIT PROCESS. See note.		

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
	(1)(iii) If MMS determines that the consideration paid under an arm's-length transportation contract does not reflect the value of the transportation because of misconduct by or between the contracting parties . . . In these circumstances, MMS will notify you and give you an opportunity to provide written information justifying your transportation costs.			
206.178 ..... (a)(2)(i) and (ii)	(a) *Determining a transportation allowance under an arm's-length contract.* (2)(i) . . . you cannot take an allowance for the costs of transporting lease production that is not royalty bearing without MMS approval, or without lessor approval on tribal leases. (ii) As an alternative to paragraph (a)(2)(i) of this section, you may propose to MMS a cost allocation method based on the values of the products transported. . . .	20	1	20
206.178(a)(3)(i) and (ii)	(a) *Determining a transportation allowance under an arm's-length contract.* (3)(i) If your arm's-length transportation contract includes both gaseous and liquid products and the transportation costs attributable to each cannot be determined from the contract, you must propose an allocation procedure to MMS. . . . (ii) You are required to submit all relevant data to support your allocation proposal. . . .	40	1	40
206.178(b)(1)(ii)	(b) *Determining a transportation allowance under a non-arm's-length contract or no contract.* (1)(ii) . . . You must submit the actual cost information to support the allowance to MMS on Form MMS–4295, Gas Transportation Allowance Report, within 3 months after the end of the 12-month period to which the allowance applies. . . .	15	3	45
206.178(b)(2)(iv)	(b) *Determining a transportation allowance under a non-arm's-length contract or no contract.* (2)(iv) You may use either depreciation with a return on undepreciated capital investment or a return on depreciable capital investment. . . . you may not later elect to change to the other alternative without MMS approval.	20	1	20
206.178(b)(2)(iv)(A)	(b) *Determining a transportation allowance under a non-arm's-length contract or no contract.* (2)(iv)(A) . . . Once you make an election, you may not change methods without MMS approval. . . .	20	1	20
206.178(b)(3)(i)	(b) *Determining a transportation allowance under a non-arm's-length contract or no contract.* (3)(i) . . . Except as provided in this paragraph, you may not take an allowance for transporting a product that is not royalty bearing without MMS approval.	40	1	40
206.178(b)(3)(ii)	(b) *Determining a transportation allowance under a non-arm's-length contract or no contract.* (3)(ii) As an alternative to the requirements of paragraph (b)(3)(i) of this section, you may propose to MMS a cost allocation method based on the values of the products transported. . . .	20	1	20
206.178(b)(5)	(b) *Determining a transportation allowance under a non-arm's-length contract or no contract.*	40	1	40

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
	(5) If you transport both gaseous and liquid products through the same transportation system, you must propose a cost allocation procedure to MMS. . . . You are required to submit all relevant data to support your proposal. . . .			
206.178(d)(1)	(d) *Reporting your transportation allowance* ..... (1) If MMS requests, you must submit all data used to determine your transportation allowance . . .	AUDIT PROCESS. See note.		
206.178(d)(2), (e), and (f)(1)	(d) *Reporting your transportation allowance* ..... (2) You must report transportation allowances as a separate entry on Form MMS–2014. . . . (e) *Adjusting incorrect allowances*. If for any month the transportation allowance you are entitled to is less than the amount you took on Form MMS–2014, you are required to report and pay additional royalties due, plus interest computed under 30 CFR 218.54 from the first day of the first month you deducted the improper transportation allowance until the date you pay the royalties due. . . . (f) *Determining allowable costs for transportation allowances. . . .* (1) *Firm demand charges paid to pipelines*. . . . You must modify the Form MMS–2014 by the amount received or credited for the affected reporting period.	Burden covered under OMB Control Number 1010–0140. Burden covered under § 210.52.		
	Processing Allowances			
206.180(a)(1)(i)	How do I determine an actual processing allowance? (a) *Determining a processing allowance if you have an arm's-length processing contract.* (1)(i) . . . You have the burden of demonstrating that your contract is arm's-length. You are required to submit to MMS a copy of your arm's-length contract(s) and all subsequent amendments to the contract(s) within 2 months of the date MMS receives your first report that deducts the allowance on the Form MMS–2014.	1	15	15
206.180(a)(1)(iii)	(a) *Determining a processing allowance if you have an arm's-length processing contract*. (1)(iii) If MMS determines that the consideration paid under an arm's-length processing contract does not reflect the value of the processing because of misconduct by or between the contracting parties . . . In these circumstances, MMS will notify you and give you an opportunity to provide written information justifying your processing costs.	AUDIT PROCESS. See note.		
206.180(a)(3)	(a) *Determining a processing allowance if you have an arm's-length processing contract*. (3) If your arm's-length processing contract includes more than one gas plant product and the processing costs attributable to each product cannot be determined from the contract, you must propose an allocation procedure to MMS. . . . You are required to submit all relevant data to support your proposal. . . .	40	1	40
206.180(b)(1)(ii)	(b) *Determining a processing allowance if you have a non-arm's-length contract or no contract*.	20	5	100

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
	(1)(ii) . . . You must submit the actual cost information to support the allowance to MMS on Form MMS–4109, Gas Processing Allowance Summary Report, within 3 months after the end of the 12-month period for which the allowance applies. . . .			
206.180(b)(2)(iv)	(b) *Determining a processing allowance if you have a non-arm's-length contract or no contract.* (2)(iv) You may use either depreciation with a return on undepreciable capital investment or a return on depreciable capital investment. . . . you may not later elect to change to the other alternative without MMS approval.	20	1	20
206.180(b)(2)(iv)(A)	(b) *Determining a processing allowance if you have a non-arm's-length contract or no contract.* (2)(iv)(A) . . . Once you make an election, you may not change methods without MMS approval. . . .	20	1	20
206.180(b)(3)	(b) *Determining a processing allowance if you have a non-arm's-length contract or no contract.* (3) Your processing allowance under this paragraph (b) must be determined based upon a calendar year or other period if you and MMS agree to an alternative.	20	1	20
206.180(c)(1)	(c) *Reporting your processing allowance* ..... (1) If MMS requests, you must submit all data used to determine your processing allowance. . . .	AUDIT PROCESS. See note.		
206.180(c)(2) and (d)	(c) *Reporting your processing allowance* ..... (2) You must report gas processing allowances as a separate entry on the Form MMS–2014. . . . (d) *Adjusting incorrect processing allowances.* If for any month the gas processing allowance you are entitled to is less than the amount you took on Form MMS–2014, you are required to pay additional royalties, plus interest computed under 30 CFR 218.54 from the first day of the first month you deducted a processing allowance until the date you pay the royalties due. . . .	Burden covered under OMB Control Number 1010–0140. Burden covered under § 210.52.		
206.181(c)	How do I establish processing costs for dual accounting purposes when I do not process the gas?. (c) A proposed comparable processing fee submitted to either the tribe and MMS (for tribal leases) or MMS (for allotted leases) with your supporting documentation submitted to MMS. If MMS does not take action on your proposal within 120 days, the proposal will be deemed to be denied and subject to appeal to the MMS Director under 30 CFR part 290.	40	1	40
207—SALES AGREEMENTS OR CONTRACTS GOVERNING THE DISPOSAL OF LEASE PRODUCTS **Subpart A—General Provisions**				
207.4(b)	Contracts made pursuant to old form leases ..... (b) The stipulation, the substance of which must be included in the contract, or be made the subject matter of a separate instrument properly identifying the leases affected thereby, is as follows . . .	AUDIT PROCESS. See note.		
207.5	Contract and sales agreement retention	AUDIT PROCESS. See note.		

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
	Copies of all sales contracts, posted price bulletins, etc., and copies of all agreements, other contracts, or other documents which are relevant to the valuation of production are to be maintained by the lessee and made available upon request during normal working hours to authorized MMS, State or Indian representatives, other MMS or BLM officials, auditors of the General Accounting Office, or other persons authorized to receive such documents, or shall be submitted to MMS within a reasonable period of time, as determined by MMS. Any oral sales arrangement negotiated by the lessee must be placed in written form and retained by the lessee. Records shall be retained in accordance with 30 CFR part 212.			
Total Burden			140	1,074

Note: AUDIT PROCESS—The Office of Regulatory Affairs determined that the audit process is exempt from the Paperwork Reduction Act of 1995 because MMS staff asks non-standard questions to resolve exceptions.

Estimated Annual Reporting and Recordkeeping "Non-hour" Cost Burden: We have identified no "non-hour" cost burdens.

Public Disclosure Statement: The PRA (44 U.S.C. 3501 *et seq.*) provides that 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.

Comments: Section 3506(c)(2)(A) of the PRA requires each agency to "* * * publish a 60-day notice in the **Federal Register** * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *." Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, we published a notice in the **Federal Register** on August 1, 2008 (73 FR 45055), announcing that we would submit this ICR to OMB for approval. (The **Federal Register** printed an additional notice correcting the response date for comments on August 8, 2008 (73 FR 46367).) The notice provided the required 60-day comment period. We received no comments in response to the notice.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by April 27, 2009.

Public Comment Policy: We will post all comments in response to this notice on our Web site at *http://www.mrm.mms.gov/Laws_R_D/InfoColl/InfoColCom.htm*. We also will post all comments, including names and addresses of respondents, at *http://www.regulations.gov*. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public view your personal identifying information, we cannot guarantee that we will be able to do so.

MMS Information Collection Clearance Officer: Arlene Bajusz, (202) 208–7744.

Dated: February 6, 2009.

Mary A. Williams,

Acting Associate Director for Minerals Revenue Management.

[FR Doc. E9–6901 Filed 3–26–09; 8:45 am]

BILLING CODE 4310–MR–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 March 14, 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 April 13, 2009.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

ARIZONA

Maricopa County

Burgess Lateral Historic District, Adjacent to Arcadia Dr. between the Arizona Canal and Lafayette Blvd., between 47th Pl. and 47th St., Phoenix, 09000221

COLORADO

Montrose County

Denver & Rio Grande Western Railroad Caboose No. 0577, Approximately 1 mi. N. by NE. of US 50 at Cimarron, adjacent to

Morrow Point Dam Rd., Curecanti National Recreation Ctr., Cimarron, 09000222
Denver & Rio Grande Western Railroad Locomotive No. 278 and Tender, Approximately 1 mi. N. by NE. of US 50 at Cimarron, near Morrow Point Dam Rd., Curecanti National Recreation Center, Cimarron, 09000223

GUAM

Guam County

Ambrosio T. and Ruth S.N. Shimizu House Historical Site, West O'Brien and W. 5th St., Agana, 09000224

ILLINOIS

Cook County

Castlewood Terrace, 819–959 W. Castlewood Terr., Chicago, 09000232

Madison County

State Bank Building, 102 W. Main, Collinsville, 09000233

INDIANA

Hancock County

Lockheed PV–2 Harpoon No. 37396, 3867 N. Aviation Way, Mount Comfort, 09000234

KANSAS

Crawford County

Crawford County Courthouse, (County Courthouses of Kansas MPS) 111 E. Forest, Courthouse Square, Girard, 09000225
St. John's Episcopal Church, SE corner of Buffalo and Summit, Girard, 09000226

Elk County

Elk County Courthouse, (County Courthouses of Kansas MPS) 127 N. Pine, Howard, 09000227

McPherson County

Berquist & Nelson Drugstore Building, 105 N. Main St., Lindsborg, 09000228
Clareen—Peterson Restaurant Building, 113 N. Main St., Lindsborg, 09000229
Holmberg and Johnson Blacksmith Shop, 122 N. Main St., Lindsborg, 09000230

Pratt County

Parachute Building, 40131 Barker Ave., Pratt, 09000231

MASSACHUSETTS

Berkshire County

H.W. Clark Biscuit Company, (North Adams MRA) 179–191 Ashland St., North Adams, 09000235

Bristol County

Codding Farm, The, 217 High St., North Attleborough, 09000236

MONTANA

Meagher County

Parberry Block East, 18–20 E. Main St., White Sulphur Springs, 09000237

NEW YORK

Hamilton County

Lake Pleasant Town Hall, 2885 NY 8, Speculator, 09000238

OKLAHOMA

Garfield County

Enid Terminal Grain Elevators Historic District, (Grain Storage and Processing Facilities in Western Oklahoma MPS) Near E. Willow Rd., N. 16th St., N. 10th St. and N. Van Buren St., Enid, 09000239

OREGON

Deschutes County

Elk Lake Guard Station, Deschutes National Forest, Bend/Fort Rock Rd. 4625.100, Bend, 09000240

UTAH

Salt Lake County

Forest Dale Historic District, Roughly bounded by 700 E., I–80, Commonwealth Ave., and 900 E., Salt Lake City, 09000241

VIRGINIA

Madison County

Hoffman Round Barn, 4864 Wolftown-Hood Rd., Wolftown, 09000242

WEST VIRGINIA

Cabell County

Freeman Estate, 1805 McCoy Rd., Huntington, 09000243

Hancock County

Weels, William E., House, 372 Virginia Terr., Newell, 09000244

Morgan County

Town of Bath Historic District, Roughly Washington and Fairfax Sts. and adjacent blocks, Berkeley Springs, 09000245

[FR Doc. E9–6912 Filed 3–26–09; 8:45 am]
BILLING CODE

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–0021]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Accounting System and Financial Capability Questionnaire.

The Department of Justice, Office of Justice Programs, Office of the Chief Financial Officer, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until May 26, 2009. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Marcia K. Paull, Chief Financial Officer, (202) 353–2820, The Office of the Chief Financial Officer, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Accounting System and Financial Capability Questionnaire.

(3) *Agency Form Number, if any, and the Applicable Component of the Department of Justice Sponsoring the Collection: Form Number:* The form number is 7120/1, The Office of the Chief Financial Officer, Office of Justice Programs, U.S. Department of Justice is sponsoring the collection.

(4) *Affected Public Who Will Be Asked or Required to Respond, as Well as a Brief Abstract:* Primary: Business or other for-profit entities and not-for-profit institutions. Other: None. The information is required for assessing the financial risk of a potential recipient in administrating federal funds in

accordance with OMB Circular A–110 and 28 CFR part 70.

(5) *An Estimate of the Total Number of Respondents and the Amount of Time Estimated for an Average Respondent to Respond:* It is estimated that 100 respondents will complete a 4-hour form.

(6) *An Estimate of the Total Public Burden (in Hours) Associated with the Collection:* The total hour burden to complete the forms is 400 annual burden hours.

If Additional Information is Required Contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: March 23, 2009.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E9–6819 Filed 3–26–09; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

March 20, 2009.

The Department of Labor (DOL) hereby announces the submission of the following public information collection requests (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the *RegInfo.gov* Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Mary Beth Smith-Toomey on 202–693–4223 (this is not a toll-free number)/e-mail: *DOL_PRA_PUBLIC@dol.gov*.

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor—ETA, Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–7316/Fax: 202–395–6974 (these are not toll-free numbers), e-mail: *OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register**. In order to ensure the appropriate consideration, comments should reference the OMB Control Number (see below).

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment and Training Administration.

Type of Review: Extension without change of a currently approved collection.

Title of Collection: Experience Rating Report.

OMB Control Number: 1205–0164.

Agency Form Numbers: ETA 204.

Affected Public: State Governments.

Total Estimated Number of Respondents: 53.

Total Estimated Annual Burden Hours: 13.

Total Estimated Annual Costs Burden (excludes wage/hour costs): $0.

Description: The ETA–204 provides data to ETA for the study of seasonality, employment or payroll fluctuations, and stabilization, expansion or contraction in operations on employment experience. The data are used to provide an indication of whether solvency problems exist in the State's Trust Fund accounts and in analyzing factors that give rise to solvency problems. The data are also used to complete the Experience Rating Index. For additional information, see related notice published at Volume 73 FR 67207 on November 13, 2008.

Agency: Employment and Training Administration.

Type of Review: Extension without change of a currently approved collection.

Title of Collection: Tax Performance System.

OMB Control Number: 1205–0332.

Agency Form Numbers: N/A.

Affected Public: State Governments.

Total Estimated Number of Respondents: 52.

Total Estimated Annual Burden Hours: 90,428.

Total Estimated Annual Costs Burden (excludes wage/hour costs): $0.

Description: The Tax Performance System (TPS) gathers and disseminates information on the timeliness and accuracy of state unemployment insurance tax operations. The Department is required to review the timeliness, accuracy, and completeness of certain tax collections of states using the Tax Performance System. Handbook 407 prescribes the operation of this program. TPS data now are an integral part of the Unemployment Insurance (UI) PERFORMS, the performance management system for the UI program. UI PERFORMS incorporates a strategic planning process of identifying priorities; ongoing collection and monitoring of valid data to measure performance; identification of areas of potential improvement; and development of specific action steps to improve performance, followed by use of available data to determine whether the action steps are successful. For additional information, see related notice published at Volume 73 FR 48243 on August 18, 2008.

Agency: Employment and Training Administration.

Type of Review: Extension without change of a currently approved collection.

Title of Collection: Reemployment and Eligibility Assessment Program.

OMB Control Number: 1205–0456.

Agency Form Numbers: ETA 9128 and ETA 9129.

Affected Public: State Governments.

Total Estimated Number of Respondents: 18.

Total Estimated Annual Burden Hours: 36.

Total Estimated Annual Costs Burden (excludes wage/hour costs): $0.

Description: The Social Security Act (U.S.C. 42, section 503) authorizes DOL to prescribe standard definitions, methods and procedures, and reporting requirements for the collection of information on benefit payment accuracy and the reemployment of UI benefit recipients to ensure the verification of these data. The ETA 9060 report provides a count of the claimants who were referred to Reemployment and Eligibility Assessment (REA) program and a count of those who completed the services. The ETA 9061 report provides for the subsequent collection of outcome data, which assists in monitoring the success of the REA program. For additional information, see related notice

published at Volume 73 FR 73957 on December 4, 2008.

Darrin A. King,

Departmental Clearance Officer.

[FR Doc. E9–6774 Filed 3–26–09; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection; Comment Request; Definition of ''Plan Assets''—Participant Contributions

AGENCY: Employee Benefits Security Administration.

ACTION: Notice.

SUMMARY: The Department of Labor (the Department), 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 continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that the data the Department collects can be provided in the desired format, that the reporting burden on the public (time and financial resources) is minimized, that the public understands the Department's collection instruments, and that the Department can accurately assess the impact of its collection requirements on respondents.

Currently, the Employee Benefits Security Administration (EBSA) is soliciting comments concerning an extension of the current approval of the information collection in the regulation entitled Definition of Plan Assets—Participant Contributions, codified at 29 CFR 2510.3–102. A copy of EBSA's proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Comments must be submitted on or before May 26, 2009.

ADDRESSES: Direct all comments regarding the ICR and burden estimates to G. Christopher Cosby, Office of Policy and Research, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Comments may be submitted in writing to the above address, via facsimile to (202) 219–4745, or electronically to the following Internet e-mail address: *ebsa.opr@dol.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The regulation concerning plan assets and participant contributions provides guidance for fiduciaries, participants, and beneficiaries of employee benefit plans regarding how participant contributions to pension plans must be handled when they are either paid to the employer by the participant or directly withheld by the employer from the employee's wages for transmission to the pension plan. In particular, the regulation sets standards for the timely delivery of such participant contributions, including an outside time limit for the employer's holding of participant contributions. In addition, for those employers who may have difficulty meeting the regulation's outside deadlines for transmitting participant contribution, the regulation (29 CFR 2510.3–102(d)) provides the opportunity for the employer to obtain an extension of the time limit by providing participants and the Department with a notice that contains specified information. The ICR pertains to this notice requirement. The Department previously requested review of this information collection and obtained approval from the Office of Management and Budget (OMB) under OMB control number 1210–0100. That approval is scheduled to expire on June 30, 2009.

II. Desired Focus of Comments

The Department of Labor (Department) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, by permitting electronic submissions of responses.

III. Current Actions

This notice requests comments on an extension of the ICR included in the regulation governing the definition of ''plan assets'' as related to participant contributions. The Department is not proposing or implementing changes to the existing ICR at this time. A summary of the ICR and the current burden estimates follows:

Type of Review: Extension of a currently approved information collection.

Agency: Employee Benefits Security Administration.

Title: Definition of Plan Assets—Participant Contributions.

OMB Number: 1210–0100.

Affected Public: Business or other for-profit; not-for-profit institutions; individuals.

Number of Respondents: 1.

Frequency: On occasion.

Number of Annual Responses: 251.

Total Burden Hours: 1.

Total Burden Cost (Operating and Maintenance): $1,000.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: March 23, 2009.

Joseph S. Piacentini,

Director, Office of Policy and Research, Employee Benefits Security Administration.

[FR Doc. E9–6835 Filed 3–26–09; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection: Comment Request National Medical Support Notice—Part B

AGENCY: Employee Benefits Security Administration.

ACTION: Notice.

SUMMARY: The Department of Labor (the Department), 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 continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that the data the Department collects can be provided in the desired format, that the reporting burden on the public (time and financial resources) is minimized, that the public understands the Department's collection instruments,

and that the Department can accurately assess the impact of its collection requirements on respondents.

Currently, the Employee Benefits Security Administration (EBSA) is soliciting comments concerning extension of the current approval of the information collections in the regulation entitled National Medical Support Notice—Part B. A copy of EBSA's information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Comments must be submitted to the office shown in the **ADDRESSES** section on or before May 26, 2009.

ADDRESSES: Direct all comments regarding the ICR and burden estimates to G. Christopher Cosby, Office of Policy and Research, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Comments may be submitted in writing to the above address, via facsimile to (202) 219–4745, or electronically to the following Internet e-mail address: *ebsa.opr@dol.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Section 609(a) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), requires each group health plan, as defined in ERISA section 607(1), to provide benefits in accordance with the applicable requirements of any ''qualified medical child support order'' (QMCSO). A QMCSO is, generally, an order issued by a state court or other competent state authority that requires a group health plan to provide group health coverage to a child or children of an employee eligible for coverage under the plan. In accordance with Congressional directives contained in the Child Support Performance and Incentive Act of 1998 (CSPIA), EBSA and the Federal Office of Child Support Enforcement (OCSE) in the Department of Health and Human Services (HHS) cooperated in the development of regulations to create a National Medical Support Notice (NMSN or Notice). The Notice simplifies the issuance and processing of qualified medical child support orders issued by state child support enforcement agencies, provides for standardized communication between state agencies, employers, and plan administrators, and creates a uniform and streamlined process for enforcement of medical child support obligations ordered by state child support enforcement agencies. The NMSN comprises two parts: Part A was promulgated by HHS and pertains to state child support enforcement agencies; part B was promulgated by the Department and pertains to plan administrators pursuant to ERISA. This solicitation of public comment relates only to part B of the NMSN, which was promulgated by the Department. In connection with promulgation of part B of the NMSN, the Department submitted an ICR to the Office of Management and Budget (OMB) for review, and OMB approved the information collections contained in the part B regulation under OMB control number 1210–0113. OMB's approval of this ICR is scheduled to expire on June 30, 2009.

II. Desired Focus of Comments

The Department is currently soliciting comments on the information collections contained in its regulation codified at 29 CFR 2590.609–2, National Medical Support Notice—Part B. The Department is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, by permitting electronic submissions of responses.

III. Current Actions

This notice requests comments on the extension of the ICR included in the regulation promulgating Part B of the National Medical Support Notice. The Department is not proposing or implementing changes to the existing ICR at this time. A summary of the ICR and the current burden estimates follows:

Agency: Employee Benefits Security Administration, Department of Labor.

Title: National Medical Support Notice—Part B.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0113.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 156,000.

Responses: 2,900,000.

Estimated Total Burden Hours: 1,000,000.

Estimated Total Burden Cost (Operating and Maintenance): $4,800,000.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the ICR; they will also become a matter of public record.

Dated: March 23, 2009.

Joseph S. Piacentini,

Director, Office of Policy and Research, Employee Benefits Security Administration.

[FR Doc. E9–6836 Filed 3–26–09; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection Comment Request; ERISA Summary Annual Report

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (the Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95). This program helps to ensure that the data the Department gathers can be provided in the desired format, the reporting burden (time and financial resources) is minimized, the public clearly understands the Department's collection instruments, and the Department can accurately assess the impact of collection requirements on respondents. Currently, the Employee Benefits Security Administration (EBSA) is soliciting comments concerning an extension of the information collections in the regulation implementing the requirement under the Employee Retirement Income Security Act of 1974 (ERISA) that administrators of employee benefit plans annually furnish participants and certain beneficiaries a statement that fairly summarizes the plan's latest annual report. A copy of the information collection request (ICR)

may be obtained by contacting the office listed in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office shown in the **ADDRESSES** section on or before May 26, 2009.

ADDRESSES: Direct all written comments regarding the information collection request and burden estimates to G. Christopher Cosby, Office of Policy and Research, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5718, Washington, DC 20210. Telephone: (202) 693–8410, FAX (202) 219–4333. 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 104(b)(3) of ERISA and the regulation published at 29 CFR 2520.104b–10 require, with certain exceptions, that administrators of employee benefit plans furnish annually to each participant and certain beneficiaries a summary annual report (SAR) meeting the requirements of the statute and regulation. The regulation prescribes the content and format of the SAR and the timing of its delivery. The SAR provides current information about the plan and assists those who receive it in understanding the plan's current financial operation and condition. It also explains participants' and beneficiaries' rights to receive further information on these issues.

EBSA previously submitted the information collection provisions in the regulation at 29 CFR 2520.104b–10 to the Office of Management and Budget (OMB) for review in an information collection request (ICR). OMB approved the ICR under OMB Control No. 1210–0040. The ICR approval is scheduled to expire on July 31, 2009.

II. Desired Focus of Comments

The Department is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Evaluate whether and to what extent the proposed collection of information minimizes the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., by permitting electronic submissions of responses.

III. Current Action

This notice requests comments on an extension of the information collections in the ERISA Summary Annual Report regulation. After considering comments received in response to this notice, the Department intends to submit the ICR to OMB for continuing approval. No change to the existing ICR is being proposed or made at this time. A summary of the ICR and the current burden estimates follows:

Type of Review: Extension of a currently approved collection of information.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: ERISA Summary Annual Report Regulation.

OMB Number: 1210–0040.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 749,000.

Responses: 228,686,000.

Estimated Total Burden Hours: 461,000.

Estimated Total Burden Cost (Operating and Maintenance): $134,161,000.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the ICR and will also become a matter of public record.

Dated: March 23, 2009.

Joseph S. Piacentini,

Director, Office of Policy and Research, Employee Benefits Security Administration.

[FR Doc. E9–6837 Filed 3–26–09; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection; Comment Request Final Rules and Class Prohibited Transaction Exemption 2006–16 Relating to Terminated Individual Account Plans

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 to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This program helps to ensure that the data the Department gathers can be provided in the desired format, that the reporting burden on the public (time and financial resources) is minimized, that the public understands the Department's collection instruments, and that the Department can accurately assess the impact of collection requirements on respondents.

Pursuant to this notice, the Department is soliciting comments concerning the information collection provisions of final rules relating to the Termination of Abandoned Individual Account Plans,[1] the Safe Harbor for Distributions From Terminated Individual Account Plans,[2] the Terminal Report for Abandoned Individual Account Plans,[3] and Class Prohibited Transaction Exemption 2006–16, relating to the Terminal Report for Abandoned Individual Account Plans, and 2004–14, relating to automatic rollovers.

A copy of the ICR may be obtained by contacting the office listed in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office shown in the **ADDRESSES** section below on or before May 26, 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–5647, Washington, DC 20210. Telephone:

[1] 29 CFR 2578.1.

[2] 29 CFR 2550.404a–3.

[3] 29 CFR 2520.103–13.

(202) 693–8410; Fax: (202) 219–4745. These are not toll-free numbers. Comments may also be submitted electronically to *ebsa.opr@dol.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The Employee Benefits Security Administration (EBSA) has promulgated three regulations and a prohibited transaction class exemption (PTE) that address the problem of abandoned individual account pension plans. The abandoned plan initiative includes the following actions, which impose the following information collections:

1. Qualified Termination Administrator (QTA) Regulation: The QTA regulation creates an orderly and efficient process by which a financial institution that holds the assets of a plan that is deemed to have been abandoned may undertake to terminate the plan and distribute its assets to participants and beneficiaries holding accounts under the plan, with protections and approval of the Department under the standards of the regulation. The regulation requires the QTA to provide certain notices to the Department, to participants and beneficiaries, and to the plan sponsor (or service providers to the plan, if necessary), and to keep certain records pertaining to the termination.

2. Abandoned Plan Terminal Report Regulation: The terminal report regulation provides an alternative, simplified method for a QTA to satisfy the annual report requirement otherwise applicable to a terminating plan by filing a special simplified terminal report with the Department after terminating an abandoned plan and distributing its accounts to participants and beneficiaries.

3. Terminated Plan Distribution Regulation: The terminated plan distribution regulation establishes a safe harbor method by which fiduciaries who are terminating individual account pension plans (whether abandoned or not) may select an investment vehicle to receive account balances distributed from the terminated plan when the participant has failed to provide investment instructions. The regulation requires the fiduciaries to provide advance notice to participants and beneficiaries of how such distributions will be invested, if no other investment instructions are provided.

4. Abandoned Plan Class Exemption: The exemption permits a QTA that terminates an abandoned plan under the QTA regulation to receive payment for its services from the abandoned plan and to distribute the account balance of a participant who has failed to provide investment direction into an individual retirement account (IRA) maintained by the QTA or an affiliate. Without the exemption, financial institutions could be unable to receive payment for services rendered out of plan assets without violating ERISA's prohibited transaction provisions and would therefore be highly unlikely to undertake the termination of abandoned plans. The exemption includes the condition that the QTA keep records of the distributions for a period of six years and make such records available on request to interested persons (including the Department and participants and beneficiaries). If a QTA wishes to be paid out of plan assets for services provided prior to becoming a QTA, the exemption requires that the QTA enter into a written agreement with a plan fiduciary or the plan sponsor prior to receiving payment and that a copy of the agreement be provided to the Department.

5. PTE 2004–16 (Automatic Rollover Exemption): Also included in this ICR are the notice and recordkeeping requirements contained in PTE 2004–16, which permits a pension plan fiduciary that is a financial institution and is also the employer maintaining an individual account pension plan for its employees to establish, on behalf of its separated employees, an IRA at a financial institution that is either the employer or an affiliate, which IRA would receive mandatory distributions that the fiduciary ''rolls over'' from the plan when an employee terminates employment.

Because all of these regulations and exemptions relate to terminating or abandoned plans and/or to distribution and rollover of distributed benefits for which no participant investment election has been made, the Department has combined the paperwork burden for all of these actions into one ICR. In the Department's view, this combination allows the public to have a better understanding of the aggregate burden imposed on the public for these related regulatory actions. OMB approved the ICR under OMB control number 1210–0127, which is scheduled to expire on June 30, 2009.

II. Desired Focus of Comments

The Department is particularly interested in comments that:

- Evaluate whether the collections of information are 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 collections of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., by permitting electronic submission of responses.

III. Current Action

The Department is requesting an extension of the currently approved ICR titled Termination of Abandoned Individual Account Plans. The Department is not proposing or implementing changes to the regulation or to the existing ICR. A summary of the ICR and the current burden estimates follows:

Type of Review: Extension of a currently approved collection of information.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Termination of Abandoned Individual Account Plans.

OMB Number: 1210–0127.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 164,240.

Frequency of Response: On occasion.

Responses: 164,240.

Estimated Total Burden Hours: 7,313.

Total Annual Cost (Operating and Maintenance): $997,000.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

Dated: March 23, 2009.

Joseph S. Piacentini,

Director, Office of Policy and Research, Employee Benefits Security Administration.

[FR Doc. E9–6838 Filed 3–26–09; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0001]

Advisory Committee on Construction Safety and Health (ACCSH) and ACCSH Work Group; Meetings

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Announcement of a meeting of the Advisory Committee on Construction Safety and Health (ACCSH) and ACCSH Work Group meetings.

SUMMARY: ACCSH will meet April 16–17, 2009, and ACCSH Work Groups will meet April 14–15, 2009, in Washington, DC.

DATES:

ACCSH: ACCSH will meet from 8:30 a.m. to 4:30 p.m., Thursday, April 16, 2009, and from 8:30 a.m. to 1 p.m., Friday, April 17, 2009.

ACCSH Work Groups: ACCSH Work Groups will meet Tuesday, April 14, and Wednesday, April 15, 2009. (For Work Group meeting times, see the Work Group Schedule information in the **SUPPLEMENTARY INFORMATION** section of this notice.)

Submission of Comments, Requests to Speak and Requests for Special Accommodation: Comments, requests to speak at the ACCSH meeting and requests for special accommodation must be submitted (postmarked, sent, transmitted) by April 8, 2009.

ADDRESSES: *ACCSH and ACCSH Work Group Meetings:* ACCSH and ACCSH Work Group meetings will be held in Rooms N–3437 A–C of the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Submission of Comments, Requests to Speak at the ACCSH or ACCSH Work Group Meetings: Interested parties may submit comments and requests to speak using any one of the following methods:

Electronically: You may submit materials, including attachments, electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal. Follow the on-line instructions for submissions.

Facsimile (FAX): If your submission, including attachments, does not exceed 10 pages, you may fax it to the OSHA Docket Office at: (202) 693–1648.

Mail, Hand Delivery, Express Mail, Messenger, or Courier Service: Submit three copies of your submissions to the OSHA Docket Office, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and OSHA Docket Office's normal business hours, 8:15 a.m.–4:45 p.m., e.t. For assistance submitting materials to the OSHA's Docket Office, please call: telephone (202) 693–2350 (TTY (877) 889–5627).

Requests for Special Accommodations: Submit requests for special accommodations by telephone, e-mail or hard copy to Ms. Veneta Chatmon, OSHA, Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1999; e-mail *chatmon.veneta@dol.gov*.

Instructions: All submissions, requests to speak and requests for special accommodations must include the Agency name and the docket number for this meeting (Docket No. OSHA–2009–0001). Because of security-related procedures, submissions by regular mail may experience significant delays.

Comments and requests to speak, including personal information, are placed in the public docket without change and may be available online. Therefore, OSHA cautions against submitting certain personal information such as social security numbers and birthdates. For further information on submitting comments, requests to speak, and requests for public accommodation, see the Public Participation information in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT:

For Press Inquiries: Ms. Jennifer Ashley, OSHA, Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1999.

For General Information About ACCSH and ACCSH Meetings: Mr. Michael Buchet, OSHA, Directorate of Construction, Room N–3468, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2020; e-mail *buchet.michael@dol.gov*.

For Special Accommodations for the Meetings: Ms. Veneta Chatmon, OSHA, Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1999; e-mail *chatmon.veneta@dol.gov*.

SUPPLEMENTARY INFORMATION:

ACCSH Meeting

ACCSH will meet Thursday, April 16, 2009 and Friday, April 17, 2009, in Washington, DC. The meeting is open to the public.

ACCSH is authorized to advise the Secretary of Labor and Assistant Secretary of Labor for Occupational Safety and Health in the formulation of standards affecting the construction industry and on policy matters arising in the administration of the safety and health provisions of the Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 3701, 3704) and the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*). (*See* also 29 CFR 1911.10 and 1912.3).

The agenda topics for this meeting include:

- Remarks from the Office of the Assistant Secretary;
- Construction Update: Directorate of Construction;
- Trench Protective Systems—Trench Shoring and Shielding Association;
- Construction Stimulus Package Analysis: Major Sectors—McGraw-Hill Construction;
- Stimulus Impact on Road/Bridge Construction Safety—American Road and Transportation Builders Association;
- Stimulus Impact on Equipment Operations Safety—International Union of Operating Engineers;
- Stimulus Impact on Highway Work Zone Safety—Laborers' International Union of North America;
- Stimulus Impact on Paving and Associated Operations Safety—National Asphalt Pavers Association;
- Stimulus Impact on Transit and Other Sector Construction Safety—Associated Genreal Contractors;
- Stimulus Impact on Green Construction Safety—The Center for Construction Research and Training;
- Stimulus Challenges and Opportunities: Tracking Changes In Outcomes; Research To Practice; And Promoting Good Practice—National Institute of Occupational Safety and Health, Office of the Director;
- Work Group Reports, Work Group and Committee Administration;
- Public Comment Period.

ACCSH meetings are transcribed and detailed minutes of the meetings are prepared. Meeting transcripts and minutes are included in the record of ACCSH meetings which is available at *http://www.regulations.gov*. Work Group reports are also included in the ACCSH meeting record.

ACCSH Work Group Meetings

In conjunction with the ACCSH meeting, the following ACCSH Work Groups will meet on Tuesday, April 14, 2009:

- Diversity—Women in Construction, 8:15 to 9:45 a.m.;
- ROPS (Roll Over Protective Structures), 10 to 11:30 a.m.;
- Powered Fastening Tools (Nailguns), 12:30 to 2 p.m.;
- Silica, 2:15 to 3:45 p.m.; and
- Residential Fall Protection, 3:45 to 5:15 p.m.

The following additional ACCSH Work Groups will meet on Wednesday, April 15, 2009:

• Regulatory Compliance (Focused Inspections), 8:30 to 10 a.m.;
• Education and Training (OTI), 10:15 to 11:45 a.m.;
• Trenching, 12:45 to 2:15 p.m.; and
• Multilingual, 2:30 to 4 p.m.

For additional information on ACCSH Work Group meetings or participating in them, please contact Mr. Michael Buchet at the address above or look on the ACCSH page on OSHA's Web page at *http://www.osha.gov*.

Public Participation

ACCSH Meetings and ACCSH Work Group Meetings: ACCSH and ACCSH Work Group meetings are open to the public. Individuals needing special accommodations for ACCSH or ACCSH Work Group meetings please contact Ms. Chatmon at the address above.

Submission of written comments and requests to address ACCSH: Interested parties may submit written comments and request to make oral presentations to ACCSH (1) electronically, (2) by FAX, or (3) by hard copy (mail, hand delivery, express mail, messenger, courier). The request must include the docket number for this ACCSH meeting (Docket No. OSHA–2009–0001) and state the amount of time desired, the interest the presenter represents (*e.g.*, businesses, organizations, themselves, affiliations, etc.), if any, and a brief outline of the presentation. Additionally at the Committee meeting, attendees may also request to address ACCSH by signing the public comment request sheet and listing the interests they represent (*e.g.*, businesses, organizations, themselves, affiliations, etc., if any) and the topics to be addressed. Such requests may be granted at the ACCSH Chair's discretion and as time and circumstances permit.

Submissions, including written comments, materials presented to ACCSH and Work Group reports, will be included without change in the meeting record and may be made available online at *http://www.regulations.gov*.

Therefore, OSHA cautions interested parties about submitting certain personal information such as birth dates and social security numbers.

Access to the Record of ACCSH Meetings, Including Work Group Reports: To read or download submissions or the record of this ACCSH meeting, go to Docket No. OSHA–2009–0001 at *http://www.regulations.gov*.

• The meeting record and all submissions for this meeting will be listed in the *http://www.regulations.gov* index. Although listed in the index, some documents (*e.g.*, copyrighted materials) are not publicly available through *http://www.regulations.gov*.

• The record and all submissions, including materials not available through *http://www.regulations.gov* will be available for inspection and copying in the OSHA Docket Office at the address above.

Authority and Signature

Mr. Donald G. Shalhoub, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice under the authority granted by section 7 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656), section 107 of the Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 3701 *et seq.*), 29 CFR 1911 and 1912, and Secretary of Labor's Order No. 5–2007 (72 FR 31160).

Signed at Washington, DC this 23rd day of March 2009.

Donald G. Shalhoub,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. E9–6824 Filed 3–26–09; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL SCIENCE FOUNDATION

National Science Board; Executive Committee; Sunshine Act Meetings; Notice (Revised)

The National Science Board's Executive Committee, 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:

DATE AND TIME: Tuesday, March 31, 2009 at 11:30 a.m.

SUBJECT MATTER: To make award actions.

STATUS: Closed.

This meeting will be held by teleconference originating at the National Science Board Office, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Please refer to the National Science Board Web site (*http://www.nsf.gov/nsb*) for information or schedule updates, or contact: Clifford Gabriel, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–7571.

Ann Ferrante,

Writer-Editor.

[FR Doc. E9–6834 Filed 3–26–09; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2009–0133]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The NRC invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The Title of the Information Collection:* 10 CFR part 40, Domestic Licensing of Source Material.

2. *Current OMB Approval Number:* 3150–0020.

3. *How Often the Collection is Required:* On occasion. Reports required under 10 CFR part 40 are collected and evaluated on a continuing basis as events occur. There is a one-time submittal of information to receive a license. Renewal applications need to be submitted every 5 to 10 years. Information in previous applications may be referenced without being resubmitted. In addition, recordkeeping must be performed on an on-going basis. NRC Form 484 is submitted semiannually to report ground-water data necessary to implement EPA ground-water standards.

4. *Who is Required or Asked to Report:* 10 CFR part 40: Applicants for and holders of NRC licenses authorizing the receipt, possession, use, or transfer of radioactive source and byproduct material.

5. *The Number of Annual Respondents:* 894 (273 NRC Licensees [68 NRC responses + 205 NRC Recordkeepers] + 621 Agreement State Licensees [349 Agreement State responses + 272 Agreement State recordkeepers])

6. *The Number of Hours Needed Annually to Complete the Requirement or Request:* 64,214 total hours [20,525 for NRC Licensees (15,823 hours for reporting and 4,702 hours for recordkeeping) and 43,689 for Agreement State Licensees (25,963

hours for reporting and 17,726 hours for recordkeeping)].

7. *Abstract:* 10 CFR part 40 establishes requirements for licenses for the receipt, possession, use and transfer of radioactive source and byproduct material. NRC Form 484 is used to report certain groundwater monitoring data required by 10 CFR part 40 for uranium recovery licensees. The application, reporting and recordkeeping requirements are necessary to permit the NRC to make a determination on whether the possession, use, and transfer of source and byproduct material is in conformance with the Commission's regulations for protection of public health and safety.

Submit, by May 26, 2009, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the burden estimate accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, Maryland 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html*. The document will be available on the NRC home page site for 60 days after the signature date of this notice. Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. Comments submitted should reference Docket No. NRC–2009–0133. You may submit your comments by any of the following methods. Electronic comments: Go to *http://www.regulations.gov* and search for Docket No. NRC–2009–0133. Mail comments to NRC Clearance Officer, Gregory Trussell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Questions about the information collection requirements may be directed to the NRC Clearance Officer, Gregory Trussell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–6445, or by e-mail to *INFOCOLLECTS.Resource@NRC.GOV*.

Dated at Rockville, Maryland, this 20th day of March, 2009.

For the Nuclear Regulatory Commission.

Gregory Trussell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. E9–6847 Filed 3–26–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271; NRC–2009–0121]

Entergy Nuclear Operations, Inc.; Vermont Yankee Nuclear Power Station; Exemption

1.0 Background

Entergy Nuclear Operations, Inc. (Entergy or the licensee) is the holder of Facility Operating License No. DPR–28, which authorizes operation of the Vermont Yankee Nuclear Power Station (VY). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (NRC or the Commission) now or hereafter in effect.

The facility consists of a boiling-water reactor located in Windham County, Vermont.

2.0 Request/Action

Title 10 of the *Code of Federal Regulations* (10 CFR), Part 50, Section 50.48, requires that nuclear power plants that were licensed before January 1, 1979, of which VY is one, must satisfy the requirements of 10 CFR Part 50, Appendix R, Section III.G.2, which requires to have a minimum of 20 feet separation between redundant cable trays.

In an NRC letter dated December 1, 1986, the NRC granted the licensee the exemption from the provisions of 10 CFR Part 50, Appendix R, Section III.G.2, which in part permitted a reduction in minimum separation distance between cable trays in the northwest corner of Fire Zone RB–3 of the reactor building to 18 feet. VY has identified that the actual minimum physical separation distance between the cable trays is actually 17 feet–7.5 inches.

In summary, the letter dated July 11, 2008, Agencywide Documents Access and Management System (ADAMS) accession number ML082030154, as supplemented on November 20, 2008, ADAMS accession number ML083370180, Entergy on behalf of VY, requested a revision to the exemption from the provisions of 10 CFR Part 50, Appendix R, Section III.G.2, dated December 1, 1986 (ML011620492), which in part permitted a reduction in minimum separation distance between cable trays in the northwest corner of Fire Zone RB–3 of the Reactor Building to 18 feet. VY has requested a revision of the existing exemption to permit the actual minimum separation distance of 17 feet–7.5 inches.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. One of these special circumstances, described in 10 CFR 50.12(a)(2)(ii), is that the application of the regulation is not necessary to achieve the underlying purpose of the rule.

The underlying purpose of Subsection III.G.2 of 10 CFR Part 50, Appendix R, is to ensure that one of the redundant trains necessary to achieve and maintain hot shutdown conditions remains free of fire damage in the event of a fire.

The NRC staff reviewed the licensee's evaluation in support of the subject exemption request and concludes that the further reduction in minimum separation distance is sufficient to maintain an adequate level of safety to meet the requirements of 10 CFR 50.12(a)(2)(ii) in that the application of the regulation is not necessary to achieve the underlying purpose of the rule.

Authorized by Law

This exemption would permit a reduced minimum separation distance of 17 feet–7.5 inches, instead of ''more than 20 feet'' between cable trays in Fire Zone RB–3, elevation 252 feet, provided all other passive and active forms of protection (*e.g.*, lack of combustible fuel loading or fire hazards, fire detectors and automatic fire suppression system) are provided and maintained in accordance with III.G.2. As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR Part 50. The NRC staff has determined that granting of the licensee's proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or the

Commission's regulations. Therefore, the exemption is authorized by law.

No Undue Risk to Public Health and Safety

One of the underlying purposes of 10 CFR Part 50, Appendix R Section III.G is to protect safe shutdown capability. This is done by ensuring that one train of systems necessary to achieve and maintain hot shutdown conditions from either the control room or emergency control station(s) is free of fire damage. III.G.2 provides the following means to ensure that a redundant train of safe shutdown equipment is free of fire damage, where redundant trains are located in the same fire area:

a. Separation of cables and equipment by a fire barrier having a 3-hour rating,

b. Separation of cables and equipment by a horizontal distance of more than 20 feet with no intervening combustibles or fire hazards and with fire detectors and an automatic fire suppression system in the fire area, or

c. Enclosure of cables and equipment in a fire barrier having a 1-hour rating and with fire detectors and an automatic fire suppression system in the fire area.

Entergy has indicated that the cable trays will be separated by a minimum distance of 17 feet–7.5 inches for a horizontal distance of approximately 10 feet and that the remaining length of cable trays will be separated by more than 17 feet–7.5 inches. Entergy has also indicated that transient combustibles and hot work controls have been enhanced since the exemption was originally granted. This was accomplished by designating Fire Zone RB–3 as a ''Level 2'' combustible control area, which limits combustibles to moderate quantities and hot work requires prior review and approval of a fire protection engineer.

Additionally, Entergy has stated that a pre-action automatic sprinkler system is provided beneath the lowest level of cable trays and above the top level of cable trays in Fire Zone RB–3 and that manual suppression equipment is provided throughout Fire Zone RB–3 in the form of accessible fire hose stations and portable fire extinguishers. A fire detection system is provided in the form of Ionization-type smoke detectors.

According to Entergy, the fire protection systems are functionally unchanged from what was previously included in the December 1, 1986, evaluation. The licensee has indicated that 1-hour 3M Interam fire barriers were installed to protect certain raceways in the northwest corner of elevation 252 feet however; no credit for the barriers has been requested as part of this exemption.

Based on the above, the exemption to allow the reduced minimum separation distance of 17 feet–7.5 inches in lieu of the 20 feet dimension specified in III.G.2 a, b, and c, does not increase the probability of postulated accidents or undue risk. Based on the combination of a lack of combustible fuel loading and ignition sources, room configuration and the separation distance of 17 feet–7.5 inches, the overall level of protection and defense in depth has been shown to meet or exceed the intent of the requirements included in III.G.2 and equivalent with regard to safe shutdown capability following a fire. Therefore, there is no additional risk to public health and safety.

Consistent With Common Defense and Security

The proposed exemption would permit a reduced minimum separation distance between cable trays in a select area in lieu of meeting the separation requirements specified in III.G.2. This change has no relation to security issues. Therefore, the common defense and security is not impacted by this exemption.

Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(ii), are present whenever application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. Part of the underlying purpose of 10 CFR Part 50, Appendix R Section III.G is to assure safe shutdown capability. Entergy states that the active and passive fire protection features that were included in the original exemption remain functionally unchanged. This review determined that the reduction in minimum separation distance does not adversely affect the level of safety at the plant given the physical configuration of the cable trays, existing suppression and detection systems and the lack of combustible fuel loading in the area. The combination of these safeguards is sufficient to maintain safe shutdown capability in the event of a fire even at the reduced separation distance of 17 feet–7.5 inches. Since the underlying purpose of 10 CFR Part 50, Appendix R Section III.G to protect safe shutdown capability is achieved, the special circumstances required by 10 CFR 50.12(a)(2)(ii) for the granting of an exemption from 10 CFR Part 50, Appendix R Section III.G.2 exist.

4.0 Conclusion

Accordingly, the Commission has determined that special circumstances are present and that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security levels intended by the rule for Nuclear Power Plants. Therefore, the Commission hereby grants Entergy an exemption from the requirements of III.G.2 b of 10 CFR Part 50, Appendix R, which is required by 10 CFR 50.48(b) for plants licensed to operate before January 1, 1979, to VY.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (74 FR 11612).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 19th day of March 2009.

For the Nuclear Regulatory Commission.

Robert A. Nelson,

Acting Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E9–6845 Filed 3–26–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0138]

Proposed Generic Communication; Pre-Licensing Construction Activities at Proposed Uranium Recovery Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of opportunity for public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to issue a regulatory issue summary (RIS) to present its interpretation of the regulations governing the commencement of construction found in 10 CFR 40.32(e). This **Federal Register** notice is available through the NRC's Agencywide Documents Access and Management System (ADAMS) under accession number ML083470668.

DATES: Comment period expires April 27, 2009. Comments submitted after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSES: Submit written comments to the Chief, Uranium Recovery Licensing Branch, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear

Regulatory Commission, Mail Stop T–8F5, Washington, DC 20555–0001, and cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to NRC Headquarters, 11545 Rockville Pike (Room T–8F5), Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen J. Cohen at 301–415–7182 or by e-mail at *stephen.cohen@nrc.gov*.

Draft Regulatory Issue Summary 2009–XX, ''Pre-Licensing Construction Activities at Proposed Uranium Recovery Facilities''

Addressees

All holders of operating licenses for uranium recovery facilities and all companies that have submitted applications to construct new uranium recovery facilities of all types (conventional mills, heap leach, and in situ recovery (ISR) facilities) or letters of intent to submit such applications.

Intent

The U.S. Nuclear Regulatory Commission (NRC) is issuing this regulatory issue summary (RIS) to inform addressees of the NRC's policy regarding pre-licensing construction activities at proposed uranium recovery facilities. The NRC is issuing this RIS in response to industry inquiries regarding the activities that applicants may undertake prior to receiving a license.

Background

In relation to the applications for new uranium recovery facilities currently under review and those applications expected over the next several years, the NRC has been queried by the uranium recovery industry about those construction activities that would be permissible at proposed uranium recovery facilities before a license is granted. The industry has requested information on such pre-licensing construction activities, including the potential use of limited work authorizations (LWAs) as provided in the reactor program, in the interest of minimizing the lead time from receipt of a license to the initiation of uranium recovery operations.

Summary of Issue

The NRC's regulations in 10 CFR 40.32(e) state that ''commencement of construction'' of a uranium recovery facility prior to issuance of a license is grounds for license denial. The term ''commencement of construction'' means ''any clearing of land, excavation, or other substantial action that would adversely affect the environment of a site.'' The term does not mean ''site exploration, roads necessary for site exploration, borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the site or the protection of environmental values.'' Such activities may thus be conducted before a license is granted.

In a Staff Requirements Memorandum (SRM)-M081211, the Commission directed the staff to budget resources to develop a proposed rulemaking to revise 10 CFR 40.32(e) to determine whether a limited work authorization provision is appropriated for in-situ uranium facilities. Information gathered through the process described in this RIS will be used to support development of such a proposed rulemaking.

ISR Industry representatives, through their legal counsel, presented their opinions to staff regarding the applicability of 10 CFR 40.32(e) to ISR facilities during a meeting on November 18, 2008. Industry's position is that 10 CFR 40.32(e) is not applicable to ISR facilities, based on the rulemaking history of this regulation as reflected in the 1980 **Federal Register** notice publishing the final rule. In a November 18, 2008 White Paper, the ISR industry argues as follows:

> This 1980 final rule promulgated and finalized a number of UMTRCA-specific regulations, including what the Commission referred to as ''siting and design criteria'' for newly proposed conventional uranium milling facilities (October 3, 1980; 45 FR 65521). One of these regulations was a newly proposed 10 CFR 40.32(e) that dealt directly with the extent to which a proposed conventional uranium mill project site could be developed and constructed pursuant to these ''siting and design criteria'' prior to the issuance of a uranium milling license. This new 10 CFR 40.32(e) imposed a requirement on the Director of NRC's then-named Office of Nuclear Material Safety and Safeguards (NMSS) (now Office of Federal and State Materials and Environmental Management Programs) to make ''a positive finding on an applicant's proposed plans as meeting the requirements and objectives in Appendix A *prior to commencement of construction of a mill which produces byproduct material*.''

Industry further stated the following:

> Based on this requirement, the Commission concluded in the regulation that ''[c]ommencement of construction prior to this conclusion is grounds for denial of a license to possess and use source and byproduct material in the plant or facility.'' (10 CFR 40.32(e)). Therefore, ''the denial of applications for licenses where construction is started before the appropriate environmental appraisals are completed and documented'' is required.

However, it is crystal-clear from NRC's accompanying explanatory language that this requirement is to be imposed only on a conventional ''mill which produces byproduct material'' as tailings, where it states: ''Construction activities are likely to result in significant and long lasting environmental impacts, the propriety of which cannot be ascertained until these environmental appraisals are completed and documented.''

In addition, to support its claim that 10 CFR 40.32(e) applies only to conventional mills, the ISR industry paper states:

> Given that each mill tailings pile constitutes a low-level waste burial site containing long lived radioactive materials, * * * prudence requires that specific methods of tailings disposal, mill decontamination, site reclamation, surety arrangements, and arrangements to allow for transfer of site and tailings ownership be worked out and approved before a license is granted.
> (October 3, 1980; 45 FR 65521).

According to industry, ISR applicants, therefore, should be allowed to build out most of the facilities in three tiers. Tier 1 includes activities over which NRC would have no jurisdiction, such as:

- Laying foundations and construction of all support structures;
- Laying of foundations for processing facilities;
- Construction of ancillary facilities (*i.e.*, roads, parking lots, access controls, power lines);
- Installation of water and sanitary systems;
- Drilling of disposal wells.

Tier 2 activities would include those requiring NRC approval, but not a license, such as the following:

- Construction of processing facilities;
- Drilling of injection and production wells;
- Installation of wellfield pipelines.

Tier 3 activities would not occur until a license is issued and would include construction of the evaporation ponds and engaging in uranium recovery operations.

NRC staff does not agree with industry's interpretation of 10 CFR 40.32(e). This regulation uses the terms ''uranium milling'' and ''byproduct material,'' each of which is specifically defined in 10 CFR 40.4. The term ''uranium milling'' means ''any activity that results in the production of byproduct material as defined in this part.'' The term ''byproduct material'' means ''the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore

processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes.'' These definitions were added to 10 CFR Part 40 in a 1979 final rulemaking that the ISR industry paper does not discuss.

The NRC's regulations in 10 CFR Part 50 (Domestic Licensing of Production and Utilization Facilities) include an LWA process that allows the NRC to approve the conduct of certain construction activities in advance of the issuance of a construction permit or combined license. However, there are no similar provisions in 10 CFR Part 40 for the use of LWAs in the licensing of uranium recovery facilities. Therefore, if an applicant wishes to perform pre-licensing construction activities apart from those permitted under 10 CFR 40.32(e), an exemption request must be submitted for the staff's review. The exemption request must specify the particular activity, the purpose and need for the activity, the duration of the activity, and the potential impacts to human health and the environment. The request should include drawings that provide construction details and the location of the proposed activity.

Depending on the specific activities included in the exemption request, the staff's review may include an environmental assessment pursuant to the requirements of 10 CFR Part 51 (Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions), consistent with the guidance in NUREG–1748 (Environmental Review Guidance for Licensing Actions Associated with NMSS Programs). Exemption requests will be reviewed on a case-by-case basis and the granting of any exemptions does not ensure subsequent approval of a license. As such, any construction activities performed by the applicant under an exemption and prior to the issuance of a license are performed at the applicant's risk.

Voluntary Response Requested

All addressees and the public are requested to voluntarily submit comments regarding the pre-licensing policy presented in this RIS. To be of use to the NRC, responses should be submitted within 30 days of the date of this summary.

Congressional Review Act

This RIS is not a rule as designated in the Congressional Review Act (5 U.S.C. 801–886) and, therefore, is not subject to the Act.

Paperwork Reduction Act Statement

This draft RIS does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval numbers 3150–0020 and 3150–0021.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection unless the requesting document displays a currently valid OMB clearance number.

Contact

This RIS requires no specific action or written response. If you have any questions about this summary, please contact the technical contact listed below.

Technical Contact: Stephen J. Cohen, DWMEP/URLB, (301) 415–7182, e-mail: *stephen.cohen@nrc.gov*.

Note: The NRC's generic communications may be found on the NRC public Web site, *http://www.nrc.gov*, under Electronic Reading Room/Document Collections.

End of Draft Regulatory Issue Summary

Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html*. If you do not have access to ADAMS or if you have problems in accessing the documents in ADAMS, contact the NRC Public Document Room (PDR) reference staff at 1–800–397–4209 or 301–415–4737 or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 20th day of March 2009.

For the Nuclear Regulatory Commission.

Keith I. McConnell, Deputy Director,

Decommissioning and Uranium Recovery Licensing Directorate, Division of Waste Management, and Environmental Protection, Office of Federal and State Materials, and Environmental Management Programs.

[FR Doc. E9–6844 Filed 3–26–09; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Submission for OMB Review

AGENCY: Overseas Private Investment Corporation (OPIC).

ACTION: Request for comments.

SUMMARY: Under the provision of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to publish a Notice in the **Federal Register** notifying the public, that the Agency is revising an information collection request for OMB review, approval, and request public review and comment on the submission. Comments are being solicited on the need for the information; the accuracy of the Agency's burden estimate; the quality, practical utility and clarity of the information to be collected; and ways to minimize the reporting burden, including automated collection techniques by using other forms of technology. The proposed form under review is summarized below.

DATES: Comments must be received within 60 calendar days of publication of this notice.

ADDRESSES: Copies of the subject form and the request for review prepared for submission to OMB may be obtained from the Agency submitting officer. Comments on the form should be submitted to the Agency Submitting Officer.

FOR FURTHER INFORMATION CONTACT: OPIC Agency Submitting Officer: Essie S. Bryant, Records Management Officer, Overseas Private Investment Corporation, 1100 New York Avenue, NW., Washington, DC 20527; 202–336–8563.

OMB Contact: Office of Information and Regulatory Affairs, U.S. Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Ms. Wendy Liberante, 725 17th Street, Room 10102, NW., Washington, DC 20503; (202) 395–3647.

Summary Form Under Review:

Type of Request: Reinstatement, with changes, of a previously approved collection for which approval is expiring.

Title: Sponsor Disclosure Report.

Form Number: OPIC–129.

Frequency of Use: Once per major sponsor, per project.

Type of Respondents: Business or other institutions.

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. Companies sponsoring projects overseas.

Reporting Hours: 5 hours per project.
Number of Responses: 300 per year.
Federal Cost: $66,000 per year.
Authority for Information Collection: Sections 231, 234 (b), and (c) of the Foreign Assistance Act of 1961, as amended.
Abstract (Needs and Uses): The OPIC 129 form is the principal document used by OPIC to determine the investor's and project's eligibility, assess the environmental impact and developmental effects of the project, measure the economic effects for the United States and the host country economy, and collect information for underwriting analysis.

Dated: March 19, 2009.

Genevieve Stubbs,

Senior Administrative & FOIA Counsel, Department of Legal Affairs.

[FR Doc. E9–6732 Filed 3–26–09; 8:45 am]

BILLING CODE 3210–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59613; File No. SR–NYSE–2009–27]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange LLC Amending NYSE Rule 124 To Execute the Odd-Lot Portion of a Part of a Round-Lot Order Pursuant to the Same Pricing Methodology Used for Odd-Lot Orders

March 20, 2009.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 11, 2009, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Rule 124 (Odd-Lot Orders) to execute the odd-lot portion of a part of a round-lot (''PRL'') order pursuant to the same pricing methodology used for odd-lot orders.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') proposes to amend Exchange Rule 124 (Odd-Lot Orders) to execute the odd-lot portion of a part of a round-lot (''PRL'') order pursuant to the same pricing methodology used for odd-lot orders.[4]

The Exchange notes that parallel changes are proposed to be made to the rules of the NYSE Alternext Exchange (formerly the American Stock Exchange).[5]

Background

Currently, odd-lot orders on the Exchange are processed in a separate system on the Exchange from the Exchange systems that execute round-lot orders. Odd-lots are executed systemically by Exchange systems designated solely for odd-lot orders (the ''Odd-lot System'').[6] The odd-lot System executes all odd-lot orders against the DMM as the contra party.[7]

Pursuant to NYSE Rule 124(c), after odd-lot market orders and marketable odd-lot limit orders are received by the Odd-lot System, they are automatically executed at the price of the next round-lot transaction in the subject security on the Exchange. Specifically, marketable odd-lot orders and marketable odd-lot limit orders are executed in time priority of receipt at the price of the next round-lot transaction, pursuant to the net process described in footnote 6 [*sic*]. The imbalance of marketable odd-lot orders that do not receive an execution as a result of the netting provision are executed in time priority of receipt at the price of the NBBO, subject to a volume limitation.[8] Any imbalances of odd-lot limit orders that were non-marketable upon receipt that subsequently become marketable receive an execution at their limit price.[9] Marketable odd-lot orders which would otherwise receive a partial execution pursuant to the volume limitation are executed in full.[10]

Any marketable odd-lot orders that do not receive an execution because of the volume limitation are executed, in time priority of receipt at the price of the next round-lot transaction, following pricing and execution procedures described above. Marketable odd-lot orders (including odd-lot limit orders that were non-marketable upon receipt and subsequently become marketable) that remain unexecuted within 30 seconds of receipt will be executed, in time priority of receipt, at the price of the NBBO (or at its limit price if the order is a non-marketable odd-lot limit order upon receipt that has become marketable). These orders are also subject to the volume limitation.

Marketable odd-lot orders and non-marketable odd-lot limit orders that have become marketable and remain unexecuted prior to the close of trading shall be executed, in time priority of receipt at the price of the closing transaction, subject to the netting provision and a volume restriction

[4] PRL orders are for a size within the standard unit (round-lot) of trading, which is 100 shares for most stocks, but contains a portion that is smaller than the standard unit of trading, *e.g.* 199 shares. It should be noted that for certain securities trading on the NYSE the standard unit of trading is 10 shares.

[5] *See* SR–NYSEALTR–2009–27 (to be filed March 11, 2009).

[6] *See* NYSE Rule 124(a).

[7] *Id.* Odd-lot orders are in effect netted against one another and executed; however, since the DMM is buying the same amount that he or she is selling, there is no economic consequence to the DMM in this type of pairing-off of orders. Any imbalance of buy or sell odd-lot market orders are executed against the DMM, up to the size of the round-lot transaction or the BID/OFFER size whichever is less.

[8] The volume limitation in section (c) of the rule is defined as the lesser of either the number of shares in the last round-lot transaction or the number of shares available at the national best bid (in the case of an odd-lot order to sell), or the national best offer (in the case of an odd-lot order to buy).

[9] Pursuant to NYSE Rule 124(d) odd-lot limit orders that are non-marketable upon receipt that become marketable are eligible to be netted and executed at the price of the next round-lot transaction. If odd-lot limit orders do not receive an execution pursuant to the netting provision, then the orders are eligible to be executed, at its limit price, subject to the volume limitation of section (c) of the rule.

[10] As with marketable odd-lot orders, non-marketable odd-lot limit orders which would otherwise receive a partial execution will be executed in full. Non-marketable odd-lot limit orders that become marketable, that remain unexecuted within 30 seconds of receipt will be executed, in time priority of receipt, except that the orders will be executed at its limit price.

which is not to exceed the size of the closing transaction.

The round-lot portion of a PRL is executed in the Exchange's round-lot system and the odd-lot portion is executed in the Odd-lot System only if no round-lot portion of the initial PRL order is cancelled.[11] Where more than one round-lot transaction is required to effect the complete execution of the round-lot portion of a PRL, the odd lot portion is executed only if the entire round-lot portion(s) of the PRL order as received by the Exchange is executed. Thereafter, the odd-lot portion is executed at the same price as the last round-lot transaction that is needed to completely execute all round-lot portions of the PRL.

Example

An order to sell 399 shares of security XYZ is received by Exchange systems at 12:00:00. The 99 share portion of the order is eligible for execution only after the 300 share portion of the PRL order is sold. See table below.

Time of execution	Number of shares	Price of execution	Customer receives
12:00:01	100	$30.22	Report of Execution 100 shares at a price of $30.22.
12:01:00	100	30.21	Report of Execution 100 shares at a price of $30.22.
12:01:47	100	30.22	Report of Execution 199 shares at a price of $30.22.
12:01:47	99	30.22	

Proposed Amendment to Partial Round Lot Pricing

The Exchange believes that the most appropriate way to execute odd-lot orders is to represent them in the round-lot auction market where they would interact with all other market interest and be priced in accordance with supply and demand dynamics. The Exchange is committed to the goal of integrating odd-lots into the round-lot market; however, the technical changes required to offer its customers the speed of electronic trading while preserving the benefits of having human-moderated trading did not afford the Exchange the ability to modify its systems to integrate odd-lots in the round-lot market.

The pricing methodology of Exchange Rule 124 has been amended as an interim measure to accommodate the pricing and execution of odd-lot orders in a manner based on the prevailing market.[12] More recently in 2007, when the Exchange modified its odd-lot pricing, Exchange systems were unable to execute the odd-lot portions of PRL orders consistent with odd-lot orders that do not contain a round-lot component. Specifically, in order to price the odd-lot portion of a PRL order pursuant to NYSE Rule 124, Exchange legacy systems responsible for sequencing order execution needed, but were unable to handle a number of variables necessary to track the odd-lot portion of a PRL order in the event a customer sought to cancel or replace his or her PRL. This systemic impediment required the Exchange to handle the execution of the odd-lot portion of a PRL differently from other odd-lot orders to ensure that customers were able to efficiently execute their PRL orders and receive timely information about the orders' status. Today, significant upgrades to the Exchange's technology[13] now make it possible for Exchange systems to price all odd-lot orders consistent with the provisions NYSE Rule 124(c) and (d).

The Exchange therefore proposes to amend NYSE Rule 124.40 to allow the odd-lot portion of PRLs to be executed in the Odd-lot System pursuant to the pricing provisions of NYSE Rule 124. The Exchange will continue to execute the odd-lot component of a PRL only if the entire round-lot portion(s) of the order as received by Exchange system is executed. The odd-lot portion of the PRL will retain the time stamp of its original entry as a PRL and would be sequenced for execution based on its initial entry time. Once all round lot components of the PRL are fully executed, the odd-lot portion of the order will be executed at a price consistent with other odd-lot orders subject to the provisions of NYSE Rule 124(c) and (d).

Example

A marketable order to sell 399 shares of security XYZ is received by Exchange systems at 12:00:00. The 99 share portion of the order is eligible for execution only after the 300 share portion of the PRL order is sold. See table below.[14]

Time of execution	Number of shares	Price of execution	Customer receives
12:00:01	100	$30.22	Report of Execution 100 shares at a price of $30.22.
12:01:00	100	30.21	Report of Execution 100 shares at a price of $30.21.
12:01:47	100	30.22	Report of Execution 100 shares at a price of $30.22.
12:01:48	99	30.23	Report of Execution 99 shares at a price of $30.23.

The Exchange proposed amendment to NYSE Rule 124.40, will ensure that all odd-lots executed on the Exchange receive consistent pricing regardless of whether the order is received as an odd-lot order or a PRL.

The Exchange will commence implementation of the proposed systemic change to execute the odd-lot portion of a PRL order pursuant to the same pricing methodology used for odd-lot orders on or about March 16, 2009. The Exchange intends to progressively implement this systemic change for PRLs on a security by security basis as it gains experience with the new technology until it is operative in all securities traded on the Floor. During the implementation, the Exchange will identify on its Web site which securities

[11] *See* NYSE Rule 124.40.

[12] *See* Securities Exchange Act No. 56551 (September 27, 2007), 73 FR 56415 (October 3, 2007)(SR–NYSE–2007–82); *See also* Securities Exchange Act No. 49536 (April 7, 2004), 69 FR 19890, 19893 (April 14, 2004) (SR–NYSE–2003–37); Securities Exchange Act No. 49745 (May 20, 2004), 69 FR 29998 (May, 26, 2004) (SR–NYSE–2003–37).

[13] *See* Securities Exchange Act Release No. 58184 (July 17, 2008), 73 FR 42853 (July 23, 2008) (SR–NYSE–2008–46). (One of the key changes was enhancing the Exchange's technology.)

[14] This example assumes that the odd-lot portion of the PRL had priority of execution in the Odd-lot system because its original order entry time was 12:00:00.

have been transitioned to the new system.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [15] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The instant proposal is in keeping with these principles in that it seeks to price the execution of all odd-lot orders pursuant to one pricing methodology now that the Exchange systemic impediments to the implementation of one pricing methodology are removed.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change is filed pursuant to paragraph (A) of Section 19(b)(3) [16] and Rule 19b–4(f)(5).[17] This proposed rule change effects a change in an existing order entry or trading system of a self-regulatory organization that: (A) Does not significantly affect the protection of investors or the public interest; (B) does not impose any significant burden on competition; and (C) does not have the effect of limiting the access to or availability of the system. The proposed filing does not in any way limit access to the Exchange's odd-lot system; rather, the changes are the result of technological advancements which remove the systemic impediments that previously restricted the Exchange's ability to execute all odd-lots pursuant to a the same pricing methodology. In so far as, the proposal ensures that all odd-lot orders are priced in the same manner, it promotes the protection of investors and serves the public interest without imposing a significant burden on competition.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2009–27 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2009–27. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2009–27 and should be submitted on or before April 17, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–6828 Filed 3–26–09; 8:45 am]

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[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(5).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59612; File No. SR–DTC–2009–06]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change To Amend Certificate of Incorporation To Increase Preferred Shares Issuance

March 20, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on February 27, 2009, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') and on March 10, 2009, amended the proposed rule change as described in Items I and II below, which items have been prepared primarily by DTC. The Commission is publishing this notice and order to solicit comments on the proposed rule change and to grant accelerated approval of the proposal.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

DTC is seeking to amend its Certificate of Incorporation to provide for the issuance of an additional 250,000 shares of DTC Series A Preferred Stock.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B),

[1] 15 U.S.C. 78s(b)(1).

and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In 1999, DTC's Certificate of Organization was amended (the ''1999 Amendment'') to provide for the issuance of 1,500,000 shares of Preferred Stock, par value $100 per share.[3] The 1999 Amendment also provided that the Preferred Stock could be issued in one or more classes having such designations, relative rights, preferences or limitation as fixed by the Board of Directors of DTC at the time of issuance of any such Preferred Stock.

DTC's Organization Certificate has been amended twice thereafter to provide for the issuance of variable rate noncumulative nonvoting shares of Series A Preferred Stock, par value $100 per shares, preferred over DTC's common stock as to dividends and in the event of liquidation (the ''Series A Preferred Stock''). In each case, mandatory cash deposits to the Participants Fund were reduced and the proceeds of the reductions of the mandatory cash deposits were used to pay the purchase price of the shares. The first such amendment, filed in 2000, provided for the issuance of 750,000 shares of Series A Preferred Stock, and the second amendment, filed in 2006, provided for the issuance of an additional 500,000 shares of Series A Preferred Stock.[4]

DTC Participants are required to purchase and own shares of the Series A Preferred Stock in proportion to their use of DTC services. DTC treats the Series A Preferred Stock held by Participants substantially the same as the mandatory cash deposits made by Participants to the Participants Fund for purposes of collateralizing securities transactions, limiting net debit positions, implementing default procedures and allocating unrecovered losses.

In order to further increase capital,[5] DTC is proposing to amend its Certificate of Organization to provide for the issuance of an additional 250,000 shares of Series A Preferred Stock, at the par value of $100 per share, and to further reduce mandatory cash deposits by a corresponding amount.[6] The proceeds of the reductions of the mandatory cash deposits will be used to pay the purchase price of the shares, and all reductions and payments will be settled through the facilities of DTC with no action required on the part of any Participant.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act[7] and the rules and regulations thereunder applicable to DTC because it will not affect the safeguarding of funds or securities in DTC's custody or control or for which it is responsible as it is merely a reallocation of the Participants Fund in order for DTC to increase its capital base while maintaining the same level of assets for use in the event of a Participant default. The proposed allocation will not impose any additional financial burden on DTC Participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change would have any impact or impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. DTC will notify the Commission if it receives additional comments.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–DTC–2009–06 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–DTC–2009–06. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of DTC and on DTC's Web site at *http://www.dtcc.com/downloads/legal/rule_filings/2009/dtc/2009–06.pdf*. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–DTC–2009–06 and should be submitted on or before April 17, 2009.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of

[2] The Commission has modified the text of the summaries prepared by DTC.

[3] This amendment was approved by the New York State Superintendent of Banks and was also the subject of a DTC rule filing approved by the Commission. Securities Exchange Act Release No. 41529 (June 15, 1999), 64 FR 33333 (June 22, 1999) [File No. SR–DTC–99–08].

[4] Securities Exchange Release Nos. 43197 (August 23, 2000), 65 FR 52459 (August 29, 2000) [File No. SR–DTC–00–02] and 54775 (November 17, 2006), 71 FR 68662 (November 27, 2006) [File No. SR–DTC–2006–14].

[5] DTC, as a depository institution, is subject to risk-based capital guidelines issued by the Board of Governors of the Federal Reserve. To be considered ''well capitalized'' under these guidelines, DTC must maintain a Tier I Leverage Ratio of at least 3% and Tier I Risk Based Capital Ratio of at least 8%. The issuance of the additional Series A Preferred Stock will enable DTC to continue to meet these requirements.

[6] The issuance of an additional 250,000 shares will increase the outstanding amount of Series A Preferred Stock to $150 million and reduce the mandatory cash portion of the Participants Fund deposit to $450 million, maintaining the total mandatory amount at $600 million. At the end of the first quarter of 2009, the total mandatory Participants Fund deposits will be increased to $1.3 billion, as recently approved by the Commission. Securities Exchange Release No. 59148 (December 23, 2008), 73 FR 62578 (October 14, 2008) [File No. SR–DTC–2008–12].

[7] 15 U.S.C. 78q–1.

Section 17A(b)(3)(F).[8] The Commission finds that the approval of DTC's rule change is consistent with this section because it will not affect the safeguarding of funds or securities in DTC's custody or control or for which it is responsible.

DTC has requested that the Commission approve the proposed rule change prior to the thirtieth day after publication of the notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice because such approval will allow DTC to make the systems changes necessary to allocate to Participants these additional shares, along with the currently outstanding shares of Series A Preferred Stock, at the beginning of the second quarter of 2009 in accordance with DTC's Rule 4 (Participants Fund and Participants Investment).

V. Conclusion

On the basis of the foregoing, the Commission finds the proposed rule change is consistent with the requirements of the Act, in particular Section 17A of the Act, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (File No. SR–DTC–2009–06), as amended, be and hereby is approved on an accelerated basis.[10]

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–6827 Filed 3–26–09; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59618; File No. SR–DTC–2009–04]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving Proposed Rule Change To Implement and Revise Fees Related to Non-Participant Services

March 23, 2009.

I. Introduction

On January 16, 2009, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–DTC–2009–04 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on February 19, 2009.[2] The Commission received no comment letters in response to the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description

DTC is revising its fee schedule for Security Position Reports (''SPRs''). An SPR is a report prepared by DTC showing for an issuer whose securities are eligible for DTC's book entry services (1) the identity of each DTC participant having that issuer's securities credited to its participant account (*i.e.*, ''security position'') as of a selected date and (2) the quantity of securities so credited. DTC also provides SPR information to trustees and other authorized third-party agents. These entities typically need SPR information in order to properly conduct proxy, record date, and voting rights-related functions.

Several types of SPRs are available: (1) Weekly reports that show daily closing positions during that week; (2) monthly reports that show closing positions on the last business day of the month; (3) quarterly dividend record date reports that show closing positions on the dividend record date; and (4) special requests that show closing positions for the date specified. Weekly, monthly, and quarterly record date reports are available by annual subscription only.

DTC charges a fee for each SPR and offers discounts for high volume SPR service users.

Currently, the fees charged to issuers or trustees for SPRs are as follows:

Report/item	Fee
Weekly Report (one-year minimum subscription required)	$1950 per year for the first security issue. $575.00 per year for each additional security for the same issuer.
Monthly Report (one-year minimum subscription required)	$450.00 per year for the first security issue. $225.00 per year for each additional security for the same issuer.
Dividend Record Date Report (one-year minimum subscription required).	$150 per year.
Special Requests	$120.00 per report, per date request.
Fax	$25.00 additional per report charge when fax service is specifically requested.
Spreadsheet	$25.00 additional per report charge when spreadsheet is specifically requested.
Extra Copy	$25.00 additional fee for the reproduction of previously compiled SPR information.

Fax, spreadsheet and extra copy charges are currently billed in addition to subscription and special request charges. DTC has proposed to improve processing efficiencies by eliminating the separate billing of fax, spreadsheet, and extra copy charges for weekly reports, monthly reports, and for dividend record date reports and by incorporating the cost of delivering those ''additional'' services into the subscription charge for the particular report ordered. Fees for special requests, including fax, spreadsheet, and extra copy charges will remain unchanged.

The revised SPR fees being adopted by DTC are as follows:

Report/item	Fee
Weekly Report (one-year minimum subscription required)	$1950 per year for the first security issue, plus a one time charge of $1400 per additional copy/recipient for that security issue.

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 15 U.S.C. 78s(b)(2).

[10] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 59387 (February 11, 2009), 74 FR 7716.

Report/item	Fee
	$575.00 per year for each additional security for the same issuer, plus a one time charge of $575 per additional copy/recipient.
Monthly Report (one-year minimum subscription required)	$450.00 per year for the first security issue, plus a one time charge of $300 per additional copy/recipient for that security issue.
	$225.00 per year for each additional security for the same issuer, plus a one time charge of $225 per additional copy/recipient.
Dividend Record Date Report (one-year minimum subscription required).	$150 per year; one year minimum subscription required, plus a one time charge of $150 per additional copy/recipient for that security issue.
Special Requests	$120.00 per report, per date request.
Special Requests—Fax	$25.00 additional per report charge when fax service is specifically requested.
Special Requests—Spreadsheet	$25.00 additional per report charge when spreadsheet is specifically requested.
Special Requests—Extra Copy	$25.00 additional fee for the reproduction of previously compiled SPR information.

III. Discussion

Section 19(b) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(D) of the Act requires that the rules of a clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges.[3] The Commission believes that DTC's rule change is consistent with this Section because it will provide for the equitable allocation of reasonable dues, fees, and other charges among the users of DTC's services.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder. In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–2009–04) be and hereby is approved.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[4]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–6832 Filed 3–26–09; 8:45 am]

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[3] 15 U.S.C. 78q–1(b)(3)(D).

[4] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59616; File No. SR–FINRA–2009–008]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change Relating to Proposed Changes to Forms U4 and U5

March 20, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 6, 2009, Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a National Association of Securities Dealers, Inc. (''NASD'')) filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend the Uniform Application for Securities Industry Registration or Transfer (''Form U4'') and the Uniform Termination Notice for Securities Industry Registration (''Form U5'') as well as FINRA Rule 8312 (FINRA BrokerCheck Disclosure).

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org*, at the principal office of FINRA and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Representatives of broker-dealers and investment advisers must use Form U4 to become registered in the appropriate jurisdictions and/or with appropriate self-regulatory organizations (''SROs''). Broker-dealers and investment advisers must use Form U5 to terminate registration of an individual in the various SROs and jurisdictions. (Forms U4 and U5 are together referred to as the ''Forms'').

As discussed in greater detail below, the proposed rule change would:

- Revise questions on the Forms to enable FINRA and other regulators to identify more readily individuals and firms (collectively referred to as ''persons'') subject to statutory disqualification pursuant to Section 15(b)(4)(D) or (E) of the Exchange Act (referred to as ''willful violations'').[3]

[3] A person is subject to statutory disqualification under Section 15(b)(4)(D) of the Exchange Act if the person has:

* * * willfully violated any provision of the Securities Act of 1933, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, [the Exchange Act], the rules or regulations under any of such statutes, or the rules of the Municipal Securities Rulemaking Board, or is unable to comply with any such provision.

Continued

• Revise questions on the Forms regarding disclosure of arbitrations or civil litigation to elicit reporting of allegations of sales practice violations made against a registered person in arbitration or litigation in which that person is not named as a party.

• Revise questions on the Forms regarding customer complaints, arbitrations or civil litigation to clarify the manner in which individuals and firms must report sales practice violations alleged against registered persons.

• Raise the monetary threshold for reporting of settlements of customer complaints, arbitrations or civil litigation on the Forms from $10,000 to $15,000, and make a conforming change to reflect this revised monetary threshold in the description of ''Historic Complaints'' in FINRA Rule 8312.

• Revise the definition of ''Date of Termination'' in Form U5, and enable firms to amend the ''Date of Termination'' and ''Reason for Termination'' sections of the Form U5, subject to certain conditions and notifications.

• Make certain technical and conforming changes to the Forms intended to clarify the information being elicited by regulators and to facilitate accurate reporting by firms on the Forms.

Proposed Revisions Regarding Willful Violations

The proposed rule change would revise the Forms to enable FINRA and other regulators [4] to identify more readily persons subject to statutory disqualification as a result of willful violations.[5] The current Forms elicit information that assists regulators in identifying persons subject to statutory disqualification based on findings by, or sanctions imposed by, the SEC, the Commodity Futures Trading Commission (''CFTC''), or an SRO as defined in the Forms,[6] but the relevant questions do not specifically inquire as to willful violations and do not capture all of the enumerated types of willful violations. For example, Questions 14C and 14E on the Form U4 and the corresponding Regulatory Action disclosure reporting page (''DRP'') elicit information regarding regulatory or disciplinary action taken by the SEC, the CFTC, or an SRO, but currently do not elicit information on whether a violation was willful and do not specifically address SRO findings of willful violations of the securities laws or the Commodity Exchange Act. Similarly, Question 7D on Form U5 asks whether the individual was involved in a disciplinary action by a domestic or foreign governmental body or SRO; however, neither the question nor the corresponding Form U5 Regulatory Action DRP elicits details on whether the action involved a willful violation. Accordingly, as described below, the proposed rule change would modify these Forms to enable FINRA and other regulators to query the CRD system to identify persons who are subject to disqualification as a result of a willful violation.

With respect to the Form U4, FINRA proposes to add questions to existing Questions 14C and 14E. Question 14C inquires about SEC and CFTC regulatory actions. The proposed rule change would add new Questions 14C(6), (7) and (8) to elicit from persons whether the SEC or the CFTC ever:

(6) *found* you to have willfully violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, or any rule or regulation under any of such Acts, or any of the rules of the Municipal Securities Rulemaking Board, or *found* you to have been unable to comply with any provision of such Act, rule or regulation?

(7) *found* you to have willfully aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, or any rule or regulation under any of such Acts, or any of the rules of the Municipal Securities Rulemaking Board?

(8) *found* you to have failed reasonably to supervise another person subject to your supervision, with a view to preventing the violation of any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, or any rule or regulation under any of such Acts, or any of the rules of the Municipal Securities Rulemaking Board?

The proposed rule change would add identical questions to Question 14E of the Form U4 (to be numbered as Questions 14E(5), (6) and (7)) in the context of findings by any SRO.[7] FINRA is not proposing any new questions addressing willful violations on the Form U4 Regulatory Action DRP, which will continue to elicit specific information regarding the status of the events reported in response to Questions 14C and 14E.[8]

With respect to the proposed new Questions 14C(6), (7) and (8), and 14E(5), (6) and (7) on the Form U4, firms will need to determine promptly whether any of their registered persons have been subject to an action that requires reporting. Firms then will be required to amend Forms U4 to respond to these new questions the first time they file a Form U4 amendment after the effective date of the proposed rule change, but no later than 120 days following the effective date of the proposed rule change. If a firm has determined that the registered person must answer ''yes'' to any part of

A person is subject to statutory disqualification under Section 15(b)(4)(E) of the Exchange Act if the person has:

* * * willfully aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of the Securities Act of 1933, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, [the Exchange Act], the rules or regulations under any of such statutes, or the rules of the Municipal Securities Rulemaking Board, or has failed reasonably to supervise, with a view to preventing violations of the provisions of such statutes, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision. For the purposes of this subparagraph (E), no person shall be deemed to have failed reasonably to supervise any other person, if:

(i) There have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person, and

(ii) Such person has reasonably discharged the duties and obligations incumbent upon him by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with.

15 U.S.C. 78*o*(b)(4)(D) and (E).

[4] In addition to FINRA, regulators that use the Forms include other SROs and securities regulators of states and other jurisdictions.

[5] In connection with the consolidation of the member firm regulatory functions of NASD and NYSE Regulation, Inc. and the formation of FINRA, FINRA adopted a revised definition of disqualification to conform to the definition of statutory disqualification under Section 3(a)(39) of the Exchange Act. Consequently, FINRA's revised definition of disqualification incorporates certain additional categories of disqualification, including willful violations. FINRA has filed a proposed rule change to establish procedures applicable to persons subject to the additional categories of disqualification. *See* Securities Exchange Act Release No. 59208 (January 6, 2009), 74 FR 1738 (January 13, 2009) (Notice of Filing of SR–FINRA–2008–045).

[6] The Forms define SRO to include any national securities or commodities exchange, as well as any national securities association or any registered clearing agency. Accordingly, the proposed rule change would delete as redundant certain specific references to commodities exchanges in individual questions that already inquire as to SRO actions.

[7] *See* Exhibit 3a. The Commission notes that there are references throughout this notice to exhibits. However, there are *no* exhibits attached to this notice. The exhibits are part of the proposed rule change.

[8] *See* Exhibit 3b. FINRA is proposing to add a question to the Form U4 Regulatory Action DRP to elicit additional information about regulatory actions reported in Question 14D(2)(b) of Form U4 (actions that result in a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct).

Questions 14C(6), (7) or (8), or Questions 14E(5), (6) or (7), the amendment filings must include completed DRP(s) covering the proceedings or action reported.[9]

FINRA appreciates that adding new disclosure questions to Form U4 will require firms to amend (or refile) such forms for their registered persons, and that this requirement may place an administrative burden on firms. Accordingly, FINRA is providing firms with up to 120 days from the effective date of the proposed rule change to amend their registered persons' Forms U4 to answer the new Questions 14C(6), (7) and (8) and 14E(5), (6) and (7), rather than the 30 days provided under Article V, Section 2 of the FINRA By-Laws for the filing of such amendments. FINRA emphasizes that complete and accurate reporting on Forms U4 is the joint responsibility of the registered person and the firm.

With respect to the Form U5, FINRA proposes to leave unchanged Question 7D (Regulatory Action Disclosure),[10] and to add a new question, Question 12C, to the Form U5 Regulatory Action DRP. After implementation, firms that answer ''yes'' to Question 7D on Form U5 will be required to provide more detailed information about the regulatory action in Question 12C on the DRP. For regulatory actions in which the SEC, CFTC or an SRO is the regulator involved, Question 12C will require firms to answer questions eliciting whether the action involves a willful violation. These questions correspond to those questions proposed to be added to the Form U4.[11] A firm will not be required to amend Forms U5 to answer Question 12C on the DRP and/or add information to a Form U5 Regulatory Action DRP that was filed previously unless it is updating a regulatory action that it reported as pending on the current DRP.

Proposed Revisions To Elicit Reporting of Allegations of Sales Practice Violations Against Registered Persons Made in Arbitrations or Litigation in Which the Registered Person Is Not a Named Party

The proposed rule change would revise the Forms to require the reporting of allegations of sales practice violations made against registered persons in a civil lawsuit or arbitration in which the registered person is not a named party. Under the current reporting structure, a firm is not required to report on a registered person's Form U4 that a customer has alleged a sales practice violation against such person in the body of a lawsuit or arbitration claim, unless the registered person also has been named as a defendant/respondent. A firm also is not required to report on Form BD (Uniform Application for Broker-Dealer Registration) that it has been named as a respondent in a consumer-initiated arbitration or to report that a sales practices violation was alleged against one of its registered persons under these circumstances. As a result, this form of ''customer complaint'' against a registered person or firm is currently unreported via the Forms and, therefore, unavailable to regulators or prospective broker-dealer employers of the registered person via CRD or to the public through BrokerCheck.

Specifically, current Question 14I(1) on Form U4 requires an applicant for registration to answer ''yes'' only if he or she has ever been named as a respondent or defendant in an investment-related, consumer-initiated arbitration or civil litigation that alleged that he or she was involved in one or more sales practice violations[12] and which: (1) Is still pending; (2) resulted in an arbitration award or civil judgment against the person, regardless of amount; or (3) was settled for an amount of $10,000 or more.[13] Question 7E(1) on Form U5 is similarly worded.

Regulators have interpreted Question 14I(1) on Form U4 and Question 7E(1) on Form U5 to mean that, even if a registered person is identified in the body of an arbitration claim or lawsuit as the person responsible for the alleged sales practice violation(s), the event is not required to be reported on the person's Form U4 or U5 because he or she was not specifically named as a respondent/defendant in the arbitration or civil litigation.[14] In other words, a ''yes'' answer to Question 14I(1) on Form U4 and Question 7E(1) on Form U5 is currently required only when the customer has sued a registered person or filed an arbitration claim naming the registered person as a respondent.

Similarly, if the customer has sued or filed an arbitration claim against the firm only and not the registered person, the registered person is not required to answer ''yes'' to these questions, even if the customer has identified a registered person in the body of the lawsuit or arbitration as the person responsible for the alleged sales practice violation(s).[15] If, however, a customer files a written complaint with a firm alleging that a registered person is responsible for the same sales practice violation(s), the firm and the registered person are responsible for reporting that customer complaint on the person's Form U4 (Question 14I(3)) or Form U5 (Question 7E(3)), provided the complaint meets the threshold reporting requirements.

Settlements of customer disputes are similarly treated. If a customer complaint against a registered person is settled (either by the person or the person's firm) for $10,000 or more,[16] the event is reported on the registered person's Form U4 or U5 under Questions 14I(2) or 7E(2), respectively. However, if the firm settles an arbitration or civil lawsuit for $10,000 or more,[17] and the person described in the complaint or claim as the person responsible for the alleged sales practice violation(s) is not a named respondent/defendant, the matter is not reported on any of the Forms and is thus unavailable to the public through BrokerCheck, and is also unavailable to regulators or prospective broker-dealer employers of the person through the CRD system.

The inconsistent treatment regarding the reporting of alleged sales practice

[9] Under the proposal, the CRD system will process Form U4 filings as follows: answers to current Questions 14C(1) through (5) and Questions 14E(1) through (4) will be transferred without change to proposed new Questions 14C and 14E, respectively. In addition, all registered persons will have ''null'' values in the newly added Questions 14C(6), (7), and (8), and 14E(5), (6), and (7). In other words, answers to these new questions will be blank (*i.e.*, not populated with either a ''yes'' or ''no'' answer). Firms must affirmatively answer these newly added questions (Questions 14C(6), (7), and (8) and 14E(5), (6), and (7)) by clicking the appropriate ''yes'' or ''no'' radio buttons the first time they file a Form U4 amendment after the effective date of the proposed rule change, but no later than 120 days following the effective date of the proposed rule change. If a firm does not affirmatively answer the new questions for registered persons, the filing of any amendments to the Form will fail the CRD-system completeness check.

[10] *See* Exhibit 3c.

[11] *See* Exhibit 3d.

[12] The ''Explanation of Terms'' in Form U4 defines ''sales practice violations'' to include ''any conduct directed at or involving a customer which would constitute a violation of any rules for which a person could be disciplined by any self-regulatory organization * * *'' *See* Exhibit 3a.

[13] This proposed rule change proposes to raise from $10,000 to $15,000 the monetary threshold for reporting of settlements of customer complaints, arbitrations or litigations on the Forms, as discussed in more detail *infra*.

[14] *See* Question 4 under the 14I(1) set of questions on Forms U4/U5 Interpretive Guidance, which is available on FINRA's Web site at *http://www.finra.org/RegulatorySystems/CRD/FilingGuidance/p005243*.

[15] Moreover, in addition to not being reportable on Forms U4 or U5, such a matter is not reportable on Form BD because Form BD does not require the reporting of any customer-initiated complaints, arbitrations or civil litigations. FINRA notes, however, that certain summary information about arbitration awards rendered in claims brought by customers against firms may be obtained through BrokerCheck.

[16] *See supra* note 12.

[17] *Id.*

violations is difficult to reconcile on principle; whether or not the person responsible for the alleged sales practice violation is a named respondent or defendant, a sales practice violation has been alleged. Moreover, this reporting inconsistency raises practical concerns because naming a firm as the sole respondent in an arbitration claim is becoming more prevalent in circumstances where the allegations involve sales practice violation(s) against a registered person.

To address this inconsistent treatment, the proposed rule change would amend Question 14I on Form U4 and Question 7E on Form U5 to require the reporting of alleged sales practice violations made by a customer against persons identified in the body of a civil litigation complaint or an arbitration claim, even when those persons are not named as parties. Specifically, the proposed rule change would add Questions 14I(4) and (5) to Form U4 and Questions 7E(4) and (5) to Form U5. These questions would in most respects reflect the language of the corresponding questions regarding alleged sales practice violations of persons identified in consumer complaints (i.e., Questions 14I(2) and (3) in Form U4 and Questions 7E(2) and (3) in Form U5).[18] The proposed new questions would apply only to arbitration claims or civil litigation filed on or after the effective date of the proposed rule change; applicants and firms would not be required to answer Questions 14I(4) or (5) on Form U4 or Questions 7E(4) or (5) on Form U5 with respect to arbitration claims or civil litigation filed before the effective date of the proposed rule change.

A ''yes'' answer to newly proposed Questions 14I(4) or 14I(5) in Form U4 or Questions 7E(4) or 7E(5) in Form U5 would indicate that the applicant or registered person, though not named as a respondent/defendant in a customer-initiated arbitration or civil lawsuit, was either named in or could be reasonably identified from the body of the arbitration claim or civil litigation as a registered person who was involved in one or more of the alleged sales practice violations. A firm would be required to report a ''yes'' answer only after it has made a good faith determination after a reasonable investigation that the alleged sales practice violation(s) involved the registered person.[19]

As a result of the proposed rule change, alleged sales practice violations made by a customer against persons identified in the body of a civil litigation complaint or arbitration claim (as described above) would be treated the same way that customer complaints are currently treated in the Uniform Forms.[20] For example, such matters would be required to be reported no later than 30 days after receipt by the firm. In addition, as is currently the practice with respect to customer complaints reported to the CRD system, registered persons would have an opportunity to provide context on the reported matter on Form U4; persons not currently registered with a FINRA member firm, but who were registered within the previous two years, would be afforded an opportunity to provide context on the reported matter through a Broker Comment.[21] Such matters would be disclosed through BrokerCheck consistent with FINRA Rule 8312. To the extent such a matter becomes non-reportable (if, for example, the arbitration or litigation is dismissed and the dismissal is not part of a settlement, or it is settled for less than the monetary threshold designated on Form U4), it would, like other customer complaints that become non-reportable, be eligible for disclosure through BrokerCheck as a ''Historic Complaint,'' provided it meets certain criteria.[22] FINRA will consider whether, as a result of the proposed rule change, corresponding changes to the reporting requirements currently found in NASD Rule 3070 and Incorporated NYSE Rule 351 would be warranted.[23]

Proposed Revisions To Clarify the Manner in Which Individuals and Firms Must Report Sales Practice Violations Alleged Against Registered Persons

The proposed rule change would make additional revisions to Questions 14I on Form U4 and 7E on Form U5 to further clarify the manner in which individuals and firms must report allegations of sales practice violations against registered persons made through arbitration or civil litigation or through consumer-initiated complaints.

Question 14I on Form U4 currently elicits information about allegations of sales practice violations for individuals who were named in arbitration or civil litigation (in Question 14I(1)) and for individuals who were the subject of consumer-initiated complaints (in Questions 14I(2) and (3)). Questions 14I(2) and (3) elicit information for consumer-initiated complaints ''not otherwise reported under Question 14I(1).''[24] Similarly, Question 7E on Form U5 currently elicits information about allegations of sales practice violations for individuals who were named in arbitration or civil litigation (in Question 7E(1)) and for individuals who were the subject of consumer-initiated complaints ''not otherwise reported under Question 7(E)(1)'' (in Questions 7(E)(2) and (3)).[25] To clarify the methods of reporting allegations of sales practice violations, the rule proposal would eliminate as unnecessary the references to Question 14I(1) in Questions 14I(2) and (3) on Form U4 and the references to Question 7E(1) in Questions 7(E)(2) and (3).[26]

[18] For text of the proposed rule changes to Forms U4 and U5, *see* Exhibits 3a and 3c, respectively.

[19] In this regard, the proposed rule change also would amend the Instructions to the Forms, noting that the revised questions should be answered ''yes'' if the individual was not named as a respondent/defendant but (1) the Statement of Claim or Complaint specifically mentions the individual by name and alleges the individual was involved in one or more sales practice violations or (2) the Statement of Claim or Complaint does not mention the individual by name but the firm has made a good faith determination that the sales practice violation(s) alleged involves one or more particular individuals.

[20] The proposed rule change would make corresponding changes to Customer Complaint/Arbitration/Civil Litigation DRPs to reflect the changes discussed above. *See* Exhibit 3b. These changes would include, *e.g.*, eliciting specifically whether, in the case of an arbitration or litigation, the individual was named as a respondent or defendant. Furthermore, the DRPs would require the alleged damages and disposition for matters in which sales practice violations are alleged against an individual who was not named in an arbitration or litigation.

[21] Individuals who currently are registered with FINRA, are associated with a member firm, and who wish to provide an update or context to information that is disclosed through BrokerCheck are required to file an amended Form U4. Individuals who are no longer registered with FINRA, but who have been FINRA-registered within the last two years (and thus about whom information is available through BrokerCheck pursuant to Rule 8312) may not provide an update or context to an event via the Form U4. Instead, such individuals may submit a Broker Comment to provide an update or context to information that is disclosed through BrokerCheck.

[22] *See* FINRA Rule 8312(b)(7), and proposed conforming revisions discussed *infra* in this rule filing.

[23] FINRA has proposed replacing NASD Rule 3070 and Incorporated NYSE Rule 351 with a single rule, proposed FINRA Rule 4530, in the Consolidated FINRA Rulebook. *See Regulatory Notice* 08–71 (November 2008).

[24] *See* Exhibit 3a.

[25] *See* Exhibit 3c.

[26] Question 14I(2) in Form U4 and Question 7E(2) in Form U5 would also add the words ''written or oral'' to describe an investment-related, consumer-initiated complaint, to reflect FINRA's longstanding interpretation that, for purposes of this question, a consumer-initiated complaint can be in either written or oral format. In addition, the Customer Complaint/Arbitration/Civil Litigation DRPs would elicit whether a complaint is oral or written. The references in Question 14I(3) of Form U4 and Question 7E(2) of Form U5 to ''written complaint'' would remain unchanged.

Proposed Revisions To Raise the Monetary Threshold for Reporting Customer Complaints, Arbitrations or Litigation From $10,000 to $15,000 on the Forms and Conforming Change to FINRA Rule 8312

Currently, Question 14I(1)(c) on the Form U4 and Question 7E(1)(c) on the Form U5 require consumer-initiated arbitration or litigation to be reported only when they have been settled for $10,000 or more. Similarly, Question 14I(2) on Form U4 and Question 7E(2) on Form U5 require customer complaints to be reported only when they have been settled for $10,000 or more. Recognizing that the monetary threshold for settlements of customer complaints, arbitrations or litigation was set in 1998 [27] and has never been adjusted for inflation, the proposed rule change would raise the existing settlement amount to $15,000 to reflect more accurately the business criteria (including the cost of litigation) firms consider when deciding to settle claims. This change would be reflected in the Forms, including in Question 14I on Form U4 and Question 7E on Form U5 as discussed *supra*.

In addition, the proposed rule change would amend the description of ''Historic Complaints'' in FINRA Rule 8312 to conform to the revised monetary threshold for reporting of settlements of customer complaints, arbitrations or litigation in the Forms. Currently, Historic Complaints refer to the information last reported on registration forms relating to customer complaints that are more than two years old and that have not been settled or adjudicated, and customer complaints, arbitrations or litigation settled for an amount less than $10,000 and are no longer reported on a registration form. Under FINRA Rule 8312, FINRA will release Historic Complaints under BrokerCheck where: (1) Any such matter became a Historic Complaint on or after March 19, 2007; (2) the most recent Historic Complaint or currently reported customer complaint, arbitration or litigation is less than ten years old; and (3) the person has a total of three or more currently disclosable regulatory actions, currently reported customer complaints, arbitrations or litigation, or Historic Complaints (subject to the limitation that they became a Historic Complaint on or after March 19, 2007), or any combination thereof.

In light of the proposed amendment to raise the monetary threshold for reporting customer complaints, arbitrations or litigation on the Forms from $10,000 to $15,000, the proposed rule change would make a conforming amendment to FINRA Rule 8312 such that Historic Complaints would include customer complaints, arbitrations or litigation that have been settled for less than $10,000 prior to the effective date of the proposed rule change (subject to the limitation that they became a Historic Complaint on or after March 19, 2007), or settled for less than $15,000 on or after the effective date of the proposed rule change. As a result, FINRA would continue to release through BrokerCheck those customer complaints, arbitrations or litigation settled for more than $10,000 but less than $15,000 prior to the effective date of the proposed rule change. Customer complaints, arbitrations or litigation settled for less than $15,000 on or after the effective date of the proposed rule change would be considered Historic Complaints for purposes of BrokerCheck.

Proposed Revisions To Clarify the Definition of ''Date of Termination'' in Form U5 and To Allow Firms To Amend the ''Date of Termination'' and ''Reason for Termination''

FINRA proposes clarifying revisions to the definition of ''date terminated'' in Form U5. The current definition provides that the date terminated means the ''effective date of the termination of the registration or, in cases where registration has not yet been made effective, the date of the withdrawal of the application for registration.'' However, as stated in Article V, Section 3(a) of the FINRA By-Laws, the authority to declare the effective date of termination for purposes of FINRA registration resides with FINRA.[28] As a result, the proposed amendments to Form U5 would clarify that the date to be provided by a firm in the ''Date of Termination'' field is the ''date that the firm terminated the individual's association with the firm in a capacity for which registration is required.'' The proposed amendments further would clarify that, in the case of full terminations, the ''Date of Termination'' provided by the firm will continue to be used by FINRA and other SROs and jurisdictions to determine whether an individual is required to requalify by examination or obtain an appropriate waiver upon reassociating with a firm.[29]

With respect to the ''effective date'' of terminations, the proposed amendments to the Form U5 would clarify that the SRO/jurisdiction determines the effective date of termination of registration. In general, for purposes of retention of jurisdiction by FINRA,[30] FINRA considers the effective date of termination to be the date that the Form U5 is received by CRD (generally the date of filing of the Form U5 with CRD).[31]

Currently, firms are explicitly precluded from changing the ''Date of Termination'' and ''Reason for Termination'' sections of Form U5 absent a court order or an arbitration award that meets certain criteria. Since 2000, firms have had the ability to add a Registration Comment (essentially, a note on the terminated person's CRD record) to report an error in connection with the filing of either the reason for, or date of, termination. The Registration Comment explains the reason for the change, but does not amend the original reason for, or date of, termination.

After reviewing the Registration Comments reported by firms since 2000, FINRA believes that it would be beneficial for firms and regulators to permit firms to amend the date of, or reason for, termination because (1) the majority of requests to change a date of, or reason for, termination are a result of clerical errors made by a firm; and (2) the inaccurate information originally

[27] *See, e.g.*, Securities Exchange Act Release No. 39562 (January 20, 1998), 63 FR 3942 (January 27, 1998); *Special NASD Notice to Members* 98–27, ''Interim Forms U–4 and U–5 Go Into Effect; Interim Form BD Also Approved'' (March 1998).

[28] Similarly, other SROs and jurisdictions generally determine the effective date of termination of registration for their purposes.

[29] FINRA also proposes to clarify that, for partial terminations, a firm is only required to provide a ''Date of Termination'' when submitting post-dated termination requests during the renewal period (i.e., to effect a termination of registration at year-end). For all other partial terminations, the ''Date of Termination'' will be an optional field for firms to complete.

[30] Article 5, Section 4 of the FINRA By-Laws provides that FINRA generally retains initial jurisdiction over a person whose association with a member has been terminated for purposes of a complaint under FINRA's rules based upon conduct that commenced prior to termination for a period of two years after the effective date of termination of registration.

[31] FINRA notes that Article 5, Section 3(a) states that termination of registration shall not take effect so long as any complaint or action under FINRA's rules is pending against a member and to which complaint or action such associated person is also a respondent or so long as any complaint or action is pending against such person individually under FINRA's rules. *See also In re Donald M. Bickerstaff,* 52 S.E.C. 232, 233 (April 17, 1995) (noting that, absent a pending complaint or an examination in process, termination of registration became effective upon receipt of the Form U5 termination notice). FINRA further notes that in the case of post-dated requests for full termination during the renewal period, for purposes of retention of jurisdiction by FINRA, the effective date of termination generally will be the (post-dated) date of termination provided by the firm and not the date that CRD received the form.

reported currently remains on a person's CRD record unless the person is able to obtain an arbitration award or a court order directing that the original entry be expunged or changed.

As a result, the proposed rule change would permit a firm to amend the ''Date of Termination'' and ''Reason for Termination'' fields in a Form U5 it previously submitted, but would require the firm to provide a reason for each amendment. To monitor such amendments, including those reporting terminations for cause, FINRA would notify other regulators and the broker-dealer with which the person is currently associated (if the person is associated with another firm) when a date of termination or reason for termination has been amended. As proposed, the original date of termination or reason for termination would remain in the CRD system in form filing history. Importantly, any changes to the ''Date of Termination'' filed by firms would not affect the manner in which FINRA determines whether an individual is required to requalify by examination or obtain an appropriate waiver upon reassociating with another firm or whether FINRA has retained jurisdiction over the individual. Rather, FINRA would continue to determine such periods based on the original ''Date of Termination'' provided by the firm and/or the date that the original filing was processed by CRD, respectively, as further described above.[32]

Proposed Technical and Conforming Changes to the Forms

The proposed rule change would make various technical and conforming changes to the Forms. These changes are generally intended to clarify the information elicited by regulators and to facilitate reporting by firms and regulators. The proposed rule change would convert certain ''free text'' fields to discrete fields on the DRPs of Forms U4 and U5. These revisions to the DRPs generally would not change the information currently elicited, but would change the presentation of the DRPs.[33] For example, the DRPs would enable filers to provide more specific information utilizing pre-established picklists for the following types of information:

- Product type;
- Sanction/disposition; and
- Status of the sanction (*i.e.*, whether the sanction remains in effect at the time of filing).

FINRA anticipates this format would elicit additional details from respondents at the initial filing stage. This format change would have attendant benefits. For example, a completeness check would prevent a firm from submitting a filing without having provided information in response to the allegations and disposition detail questions which, in turn, should reduce the need for additional communications between FINRA staff and firms that occur when DRP filings are incomplete, and generally should make the filing process more efficient.

The proposed rule change also would add to Section 7 of Form U5 (Disclosure Questions) an optional ''Disclosure Certification Checkbox'' that would enable firms to affirmatively represent that all required disclosure for a terminated person has been reported and the record is current at the time of termination. Checking the checkbox would allow the firm to bypass the process of re-reviewing a person's entire disclosure history for purposes of filing Form U5 in situations in which disclosure is up to date at the time of the person's termination.

The proposed change would make additional technical changes to the Forms. For example, it would incorporate the definition of ''found'' from the Form U4 Instructions into the Form U5 instructions. In addition, it would provide more detailed instructions regarding the reporting of an internal review (conducted by the firm) to clarify that employment-related disputes between a registered person and the firm should not be reported in Question 7B. It would also clarify how an individual may file comments to an Internal Review DRP (via ''Part II'' of that DRP) to emphasize that the individual's signature is required (in Section 8 of that DRP).

FINRA will announce the effective date of the proposed rule change in a *Regulatory Notice*. FINRA anticipates including the proposed changes in a software release to the CRD system in the second quarter of 2009.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[34] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change is designed to accomplish these ends by making changes to the Forms that will address regulatory concerns and to ease, clarify or facilitate industry reporting requirements. The proposed rule change, among other things, would enable FINRA and other regulators to identify more readily those persons subject to a statutory disqualification based on willful violations. It also would require firms to report allegations of sales practice violations made in arbitration claims and civil lawsuits against registered persons who are not named as parties in those proceedings, thereby eliminating existing inconsistencies regarding the reporting of alleged sales practice violations by registered persons.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

In April 2008, FINRA staff published *Regulatory Notice* 08–20 requesting comment on certain of the proposed changes to the Forms.[35] A copy of the *Regulatory Notice* is attached as Exhibit 2a. The comment period ended on May 27, 2008. FINRA received 36 comments

[32] With respect to the requalification period, FINRA is not proposing to allow an amended date of termination to systematically reset the two-year window in CRD. Instead, should an individual be notified that he or she is required to requalify by examination as a result of an erroneous date of termination that was subsequently amended by a firm, the individual would be required to submit a request for a waiver, and FINRA would consider the amended date of termination in connection with its review of the request. FINRA does not expect this situation to occur often; moreover, FINRA would expect to review such requests in an expeditious manner.

[33] As discussed *supra*, proposed Form U5 Regulatory Action DRP would add Question 12C that corresponds to proposed Form U4 Questions 14C(6–8) and 14E(5–7). The Forms U4 and U5 Regulatory Action DRPs would be expanded to ask details with respect to fines and penalties, including whether the money has been paid, is subject to a payment plan, or has been waived.

[34] 15 U.S.C. 78*o*–3(b)(6).

[35] *Regulatory Notice* 08–20 requested comment on revisions to the Forms regarding reporting of allegations of sale practice violations against registered persons made in litigations or arbitrations in which the registered person is not a named party; raising the monetary threshold for reporting of settlements of customer complaints, arbitrations and litigations; enabling firms to amend the date of and reason for termination on the Form U5; and certain of the technical and conforming changes. It did not request comment on the proposed rule change regarding willful violations, nor to the proposed conforming change to FINRA Rule 8312. *See* Exhibit 2a.

in response to the *Regulatory Notice*.[36] A list of the commenters in response to the *Regulatory Notice* is attached as Exhibit 2b, and copies of the comment letters received in response to the *Regulatory Notice* are attached as Exhibit 2c. Commenters generally supported the proposed changes to the Forms. A summary of the comments relevant to the issues addressed by the proposed rule change is provided below.

(a) Proposed Revisions To Elicit Reporting of Allegations of Sales Practice Violations Against Registered Persons Made in Arbitrations or Litigation in Which the Registered Person Is Not a Named Party

Thirty-four commenters commented on the proposal regarding eliciting reporting of allegations of sales practice violations against registered persons made in litigation or arbitrations in which the registered person is not named as a party.[37] The majority of commenters (26) supported or did not oppose this proposed change;[38] a minority (7) opposed it.[39] One commenter supported the part of the proposal that would require firms to report allegations made in an arbitration claim where a registered person is identified by name (in the Statement of Claim text) but did not support such reporting where the registered person is not identified by name.[40] Generally, commenters supporting the proposal stated that allegations of sales practice violations made in arbitration claims were no different than those made in written customer complaints, and therefore should be treated the same for reporting purposes.[41] Many of the same commenters viewed the proposal as ''closing a loophole,'' and noted that investors would benefit by having this type of information publicly available.[42]

The commenters opposing the proposed changes generally raised concerns about fairness to registered persons regarding potential damage to their reputations from the reporting of unadjudicated allegations, and possible lack of a meaningful opportunity to respond to such allegations.[43] While FINRA appreciates the concerns raised regarding the potential harm to a registered person's reputation based on allegations of sales practice violations made in an arbitration claim, FINRA believes that such allegations, which are made in writing and filed in a formal proceeding, are not appreciably different than those made in written customer complaints, and may have even more substance. Accordingly, such allegations should be treated in the same manner that customer complaints are currently treated in the Uniform Forms.

Several commenters supported the proposed change, but expressed concerns about the burden on firms to identify the ''subject of'' the allegations and whether, and under what circumstances, registered persons would be afforded an opportunity to remove such matters from the CRD.[44] Several commenters expressed concerns about the ability of firms to discern whether reporting as to a particular person was required based on the allegations in a claim.[45] One commenter supported the reporting of such matters only after there was an adjudication or settlement in favor of the claimant, but opposed requiring the reporting of any such matter while it was pending.[46] The commenter also expressed concerns about a firm's ability to report the allegations within the 30-day reporting period.[47] Several commenters raised questions about other fact-specific scenarios, and requested that FINRA provide interpretive guidance to assist firms in determining reporting practices should the proposed questions be adopted.[48] In addition, one commenter recommended that, in conjunction with the proposal, FINRA should consider adopting reasonable measures to promote responsible pleading.[49] Specifically, the commenter suggested that FINRA apprise customer claimants and their counsel of the significant consequences of making allegations against a registered person and consider requiring that claimants and their attorneys attest that, at the time an arbitration claim is filed, there is a good faith basis for the claims and allegations therein.

In response to these comments, FINRA has included instructions regarding reporting, and staff is prepared to develop additional guidance, if necessary, to assist firms in determining when reporting is required under the proposed questions. FINRA further notes that there is an existing process for requesting expungement relief under NASD Rule 2130. Moreover, while FINRA believes that the existing 30-day timeframe for reporting is sufficient, FINRA staff intends to work with firms that may need additional time because of extraordinary circumstances on a case-by-case basis. With respect to the comment that FINRA apprise customers and their representatives of the consequences of making allegations against a registered person, FINRA appreciates the commenters' concerns but must consider that suggestion in the context of the potential chilling effect such an action may have on the filing of legitimate customer claims.[50] Accordingly, FINRA believes that it would not be appropriate to implement the suggestion at this time.

(b) Proposed Revisions To Raise the Monetary Threshold for Reporting Customer Complaints, Arbitrations or Litigation From $10,000 to $15,000 on the Forms and Conforming Change to FINRA Rule 8312

Thirteen commenters responded to the proposal to raise the threshold for reporting of settlements. Nine of the commenters supported raising the threshold from $10,000 to $15,000 to account for increased business costs (legal and economic), and to align the threshold with the reporting requirements in NASD Rule 3070 (Reporting Requirements).[51] Of the four commenters who did not support this proposal, three suggested raising the

[36] *See* Exhibits 2b and 2c.

[37] Aidikoff; ARM; Bakhtiari; Brecek & Young; Brown & Brown; Cantella; Caruso; FMSBonds; FSI; Greene/Woodforest; Gross/Pace; Harrison; Jacobson/Cornell; Lazaro/St. John's; Lipner/Baruch; MassMutual; MWA; NASAA; Nationwide; Nelson; NPB; NPH; Penson; PIABA; ProEquities; RND; Sadler; SIFMA; Steiner; Stephens; R. Long/Wachovia; P. Spitzer/Wachovia; Williams/Woodforest; WSA. The Commission notes that Cambridge also commented on this section.

[38] Aidikoff; Bakhtiari; Brecek & Young; Cantella; Caruso; Gross/Pace; Harrison; Jacobson/Cornell; Lazaro/St. John's; Lipner/Baruch; Mass Mutual; NASAA; Nationwide; NPB; NPH; Penson; PIABA; RND; Sadler; SIFMA; Stephens; Steiner; P. Spitzer/Wachovia; WSA.

[39] Brown & Brown; FMSBonds; FSI; MWA; Nelson; ProEquities; R. Long/Wachovia.

[40] ARM.

[41] Aidikoff; Bakhtiari; Caruso; Gross/Pace; Harrison; Jacobson/Cornell; Lazaro/St. John's; Lipner/Baruch; Sadler; Steiner; Stephens.

[42] Aidikoff; Bakhtiari; Caruso; Gross/Pace; Harrison; Jacobson/Cornell; Lazaro/St. John's; Lipner/Baruch; PIABA; Steiner.

[43] Brown & Brown; FSI; Greene/Woodforest; MWA; Nelson; ProEquities; R. Long/Wachovia; Williams/Woodforest.

[44] ARM; Brecek & Young; Mann; MassMutual; NPH; Penson; RND; SIFMA; R. Long/Wachovia; WSA.

[45] ARM; Brecek & Young; Cantella; RND; SIFMA; R. Long/Wachovia; WSA.

[46] ARM.

[47] ARM.

[48] ARM; Brecek & Young; Cantella; MassMutual; NPH; Penson; ProEquities; RND; SIFMA; R. Long/Wachovia; WSA.

[49] SIFMA.

[50] SIFMA.

[51] Cambridge; FSI; Gross/Pace; Jacobson/Cornell; Lazaro/St. John's; NASAA; Nationwide; NPH; ProEquities.

threshold to a higher amount,[52] and one suggested requiring the reporting of all settlements regardless of dollar amount.[53]

FINRA believes that a dollar threshold within the questions is appropriate to address those instances where matters are settled for a nuisance value; at the same time, FINRA is not persuaded by the comments suggesting that an increase to greater than $15,000 is warranted at this time.

(c) Proposed Revisions to Form U5 To Allow Firms To Amend the ''Reason for Termination'' and the ''Date of Termination''

Eight commenters responded to the proposal to allow firms to amend the ''Reason for Termination'' and ''Date of Termination.'' [54] Six commenters affirmatively supported this proposal on the basis that it would result in more accurate information being reported to regulators and recorded in the CRD system.[55] Of the two commenters that generally opposed this proposal, one opposed allowing firms to amend the Reason for Termination or Date of Termination except in cases of clerical error.[56] The other commenter supported allowing changes to the Date of Termination, but opposed allowing changes to the Reason for Termination based on a concern about the potential for abuse by firms.[57]

FINRA believes that a firm should have the ability to correct inaccurate information that it filed on a Form U5 regarding terminations through an amendment to that original Form filing. FINRA also believes that limiting such changes to clerical errors is unnecessary in light of: (1) the attendant requirement that firms provide a reason for the Form U5 amendment; and (2) the monitoring of such amendments by FINRA and other regulators. FINRA believes that such monitoring, in particular, will protect against any potential misuse by firms.

(d) Proposed Technical and Conforming Changes to the Forms

No commenters opposed the proposed technical and conforming changes to the Forms, and four commenters affirmatively supported them.[58]

[52] ARM; R. Long/Wachovia; Williams/Woodforest.

[53] PIABA.

[54] ARM; FSI; Gross/Pace; Jacobson/Cornell; NASAA; Nationwide; PIABA; ProEquities.

[55] ARM; FSI; Gross/Pace; NASAA; Nationwide; ProEquities.

[56] Jacobson/Cornell.

[57] PIABA.

[58] FSI; Gross/Pace; NASAA; Nationwide.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–FINRA–2009–008 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2009–008. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2009–008 and should be submitted on or before April 17, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[59]

Florence E Harmon,

Deputy Secretary.

[FR Doc. E9–6830 Filed 3–26–09; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59611; File No. SR–Phlx–2009–22]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by NASDAQ OMX PHLX, Inc. Relating to Administration of Certain Rules in Respect of Index Data Dissemination

March 20, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on March 16, 2009, NASDAQ OMX PHLX, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to reflect in the administration of its rules the expected discontinuation by the NASDAQ OMX Futures Exchange, Inc. (''NFX'') of index value distribution over NFX's Market Data Distribution Network (''MDDN''). Index values will continue to be distributed via another NASDAQ OMX data dissemination service, and the discontinuation of MDDN index value dissemination will not have any impact on the listing or trading of any instruments on the

[59] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Exchange, or on any facility of a national securities exchange within the meaning of the Act. The Exchange is not proposing to amend the text of any rules, but simply to change the administration of certain rules, as described below.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, the values of the Exchange's various proprietary indexes are disseminated in parallel over two separate data services operated by The NASDAQ OMX Group, Inc. (''NASDAQ OMX'').[3] These values are included both in NFX's MDDN[4] and NASDAQ OMX's data dissemination service. The purpose of this filing is to reflect the pending discontinuation by NFX of its index data dissemination service over MDDN as redundant and unnecessary.[5]

Exchange rules condition the listing and trading of index options on, among other things, the dissemination of underlying index values periodically during the trading day and closing index values after the close of the trading day. Rule 1009A(b)(10) provides that the current underlying index value for narrow-based indexes will be reported at least once every fifteen seconds during the time the index options are traded on the Exchange.[6] Additionally, Rule 1100A(a) provides that the Exchange shall disseminate or shall assure that the closing index value is disseminated after the close of business and the current index value is disseminated from time-to-time on days on which transactions in index options are made on the Exchange.[7]

The Exchange lists options on several proprietary indexes.[8] Under this proposed rule change, discontinuation of the MDDN index value dissemination service will not affect the eligibility of such options to be listed and traded because dissemination of the underlying index data will not stop and will not be interrupted. All index values included in MDDN are currently also being disseminated over another NASDAQ OMX index dissemination service, making the MDDN index dissemination duplicative and no longer necessary.[9] In the future, the Exchange will continue dissemination of its index data either through NASDAQ OMX's index dissemination service or through one or more other (NASDAQ OMX-owned or unrelated) major market data vendors.[10]

The Exchange believes that, just like NASDAQ's index dissemination service,[11] NFX's MDDN index dissemination service is not a facility of any national securities exchange within the meaning of the Act and that the Exchange is not required under Section 19(b)(1) of the Act[12] and Rule 19b–4 thereunder[13] to file rule changes regarding administration of such service. If, at a later date, the Exchange proposed to modify the manner in which it disseminates index values, causing the relevant index dissemination service to fit within the definition of a facility of an exchange, or the Exchange proposed to tie the fees for receiving data from the index dissemination service to fees for usage of exchange services (to include, for example, listing and trading), the Exchange would file a proposed rule change with the Commission.[14]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[15] in general, and furthers the objectives of Section 6(b)(5) of the Act[16] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest by clarifying how underlying index data is to be disseminated.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose

[3] NASDAQ OMX acquired the Exchange on July 24, 2008. NFX, which was previously known as the Philadelphia Board of Trade and became a subsidiary of NASDAQ OMX on the same date, is a Designated Contract Market within the meaning of the Commodities Exchange Act.

[4] MDDN is an Internet protocol multicast network, which was developed by NFX for the purpose of, among other things, transmitting current and closing index values.

[5] The Exchange's rule book and fee schedule do not reference MDDN. As explained herein, MDDN is not a service being provided by the Exchange (rather, it is a service of NFX, a designated contract market under the Commodities Exchange Act), and even if MDDN were an Exchange-supplied service, it would not constitute a facility of a national securities exchange, making its inclusion in the Exchange's rule book unnecessary. *See, e.g.*, Securities Exchange Act Release No. 34–58897 (November 3, 2008), 73 FR 66952 (November 12, 2008) (SR–NASDAQ–2008–018) (NASDAQ's index dissemination service is not a facility of a national securities exchange, and its terms are not rules that must be filed with the Commission).

[6] *See also* Rule 1009A(c)(1) (regarding reporting requirements for continued listing of narrow-based indexes underlying options); and Rules 1009A(d)(11) and 1109A(e)(1) (regarding reporting requirements for initial and continued listing of broad-based indexes underlying options).

[7] *See also* Securities Exchange Act Release No. 53790 (May 11, 2006), 71 FR 28737 (May 17, 2006) (SR–Phlx–2006–04) (regarding, among other things, transmission over MDDN of current and closing index values underlying four index options that were approved by Commission order: XAU, OSX, SOX, and UTY).

[8] The proprietary indexes listed on the Exchange include: PHLX Chemicals Index (XCM); PHLX Defense Sector (DFX); PHLX Drug Sector (RXS); PHLX Europe Sector (XEX); PHLX Gold/Silver Sector (XAU); PHLX Housing Sector (HGX); PHLX Marine Shipping Index (SHX); PHLX Medical Device Index (MXZ); PHLX Oil Service Sector (OSX); PHLX Semiconductor Sector (SOX); PHLX Sports Index (SXP); and PHLX Utility Sector (UTY). DFX, RXS, HGX, OSX, and SOX are listed and options are traded pursuant to Rule 1009(A), which provides for trading of options on indexes pursuant to Rule 19b–4(e) of the Act. XAU and UTY, being two of the oldest indexes that pre-date Rule 19b–4(e), are listed and options are traded pursuant to Commission orders. *See* Securities Exchange Act Release Nos. 20437 (December 2, 1983), 48 FR 55229 (December 9, 1983) (XAU); and 24889 (September 9, 1987), 52 FR 35021 (September 16, 1987) (UTY). XCM, XEX, SHX, MXZ, and SXP are no longer listed or traded and have no open options interest.

[9] It is expected that other MDDN data streams will continue to operate as a service of NFX to distribute NFX trading data.

[10] As is the case with the values of proprietary indexes, current and closing index values of certain non-proprietary indexes underlying options listed on the Exchange (Hapoalim American Israeli Index, SIG Coal Producers Index, SIG Energy MLP Index, and SIG Oil Production & Exploration Index) and data regarding foreign currencies underlying options listed on the Exchange (Australian dollars, British pounds, Canadian dollars, Euros, Japanese Yen and Swiss Francs) will likewise continue to be distributed over the NASDAQ OMX index dissemination service or one or more other (NASDAQ OMX-owned or unrelated) major market data vendors.

[11] *See* Securities Exchange Act Release No. 34–58897 (November 3, 2008), 73 FR 66952 (November 12, 2008) (SR–NASDAQ–2008–018) (NASDAQ's index dissemination service is not a facility of a national securities exchange, and its terms are not rules that must be filed with the Commission).

[12] 15 U.S.C. 78s(b)(1).

[13] 17 CFR 240.19b–4.

[14] *See* Securities Exchange Act Release No. 58897 (November 3, 2008), 73 FR 66952 (November 12, 2008) (SR–NASDAQ–2008–018).

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and paragraph (f)(1) of Rule 19b–4 thereunder. Pursuant to the Act, the proposed rule change has been designated by the Exchange as constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. Specifically, as described above, the Exchange has stated how it will administer the enumerated portions of Phlx Rules 1009A and 1100A in light of the discontinuation of index data dissemination over NFX's MDDN. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

As discussed above, the Exchange believes that the MDDN index dissemination service is not a ''facility of a national securities exchange,'' and the terms and conditions of this service are therefore not included in the text of the Exchange's rules. Because of this, no changes are being made to the Exchange rule book or fee schedule, and this filing should be viewed as a statement of how the Exchange will administer its existing rules in light of the impending discontinuation of a non-exchange service (MDDN index dissemination) by a sister company (NFX).

It must be noted in this regard that rule changes to discontinue important exchange services (as opposed to non-exchange services, as is the case here) have in the past been accepted by the Commission on immediately effective basis under paragraph (f)(1) of Rule 19–b(4).[17] It stands to reason that discontinuation of a non-exchange service should receive the same treatment under paragraph (f)(1).

In its recent interpretive guidance regarding the self-regulatory organizations' rule filing process, the Commission stated that certain SRO proposals ''may be filed as an immediately effective rule so long as it is based on and similar to another SRO's rule'' and raises no new policy issues.[18] Filings in this category are eligible to be submitted under paragraph (f)(6) of Rule 19b–4.[19] As explained below, paragraph (f)(6) could serve as a separate basis for this filing's designation under Rule 19(b)(3), but the Exchange believes that designation under paragraph (f)(1) is more appropriate in this case.

The Commission recently approved removal of index dissemination from the rule book of another exchange, NASDAQ,[20] and in its impact, the present filing is similar to the NASDAQ filing. With the shut-down of MDDN index dissemination, both the PHLX and NASDAQ index values will continue to be distributed by the same index dissemination service, and since that service is not a facility of any national securities exchange (either NASDAQ or PHLX), its terms are not rules of an exchange within the meaning of the Act. This similarity to another SRO's rule makes the present filing eligible for immediate effectiveness under paragraph (f)(6) of Rule 19(b)(4).

However, unlike the NASDAQ proposal, the present filing does not require any modifications to codified rule text and relates to a service that is being proposed for discontinuation. As explained above, even when the service to be discontinued is an important facility of a national securities exchange, its discontinuation has in the past been accepted as immediately effective under paragraph (f)(1) of Rule 19b–4. Based on prior Commission practice, while paragraph (f)(6) of Rule 19b–4 would certainly apply to this filing, paragraph (f)(1) of this Rule is the appropriate basis for its immediate effectiveness.

Based on the foregoing, the Exchange designates this filing as immediately effective under paragraph (f)(1) of Rule 19b–4. It is expected that notice of the impending discontinuation of MDDN index dissemination will be given as soon as practicable and the actual discontinuation will occur shortly thereafter, on a timetable that would minimize any possible inconvenience to its users.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2009–22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2009–22. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2009–22 and should be submitted on or before April 17, 2009.

[17] *See, e.g.* , Securities Exchange Act Release No. 58613 (Sept. 22, 2008), 73 FR 57181 (Oct. 1, 2008) (SR–PHLX–2008–065) (immediately effective filing to change the administration of Exchange rules as a result of the shutdown of the entire XLE equity trading).

[18] Securities Exchange Act Release No. 58092 (July 3, 2008), 73 FR 40144 (July 11, 2008).

[19] 17 CFR 240.19b–4(f)(6).

[20] Securities Exchange Act Release No. 58897 (November 3, 2008), 73 FR 66952 (November 12, 2008) (SR–NASDAQ–2008–018) (NASDAQ's index dissemination service is not a facility of a national securities exchange, and its terms are not rules that must be filed with the Commission).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–6826 Filed 3–26–09; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59614; File No. SR–NYSEALTR–2009–27]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Alternext U.S. LLC Amending NYSE Alternext Equities Rule 124 To Execute the Odd-Lot Portion of a Part of a Round-Lot Order Pursuant to the Same Pricing Methodology Used for Odd-Lot Orders

March 20, 2009.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 11, 2009, NYSE Alternext U.S. LLC (the ''Exchange'' or ''NYSE Alternext'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Alternext Equities Rule 124 (Odd-Lot Orders) to execute the odd-lot portion of a part of a round-lot (''PRL'') order pursuant to the same pricing methodology used for odd-lot orders.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Through this filing the Exchange seeks to amend NYSE Alternext Equities Rule 124 (Odd-Lot Orders) to execute the odd-lot portion of a part of a round-lot (''PRL'') order pursuant to the same pricing methodology used for odd-lot orders.[4]

These amendments are proposed to conform to amendments filed by the New York Stock Exchange (''NYSE'').[5]

Background

As described more fully in a related rule filing,[6] NYSE Euronext acquired The Amex Membership Corporation (''AMC'') pursuant to an Agreement and Plan of Merger, dated January 17, 2008 (the ''Merger''). In connection with the Merger, the Exchange's predecessor, the American Stock Exchange LLC (''Amex''), a subsidiary of AMC, became a subsidiary of NYSE Euronext called NYSE Alternext U.S. LLC, and continues to operate as a national securities exchange registered under Section 6 of the Securities Exchange Act of 1934, as amended (the ''Act'').[7] The effective date of the Merger was October 1, 2008.

In connection with the Merger, on December 1, 2008, the Exchange relocated all equities trading conducted on the Exchange legacy trading systems and facilities located at 86 Trinity Place, New York, New York (the ''86 Trinity Trading Systems''), to trading systems and facilities located at 11 Wall Street, New York, New York (the ''Equities Relocation''). The Exchange's equity trading systems and facilities at 11 Wall Street (the ''NYSE Alternext Trading Systems'') are operated by the NYSE on behalf of the Exchange.[8]

In order to implement the Equities Relocation, the Exchange adopted Rules 1–1004 of the New York Stock Exchange LLC as the NYSE Alternext Equities Rules to govern the equities trading on the NYSE Alternext Trading Systems.

Current Execution of Odd-Lot Orders

Currently, odd-lot orders on the Exchange are processed in a separate system on the Exchange from the Exchange systems that execute round-lot orders. Odd-lots are executed systemically by Exchange systems designated solely for odd-lot orders (the ''Odd-lot System'').[9] The odd-lot System executes all odd-lot orders against the DMM as the contra party.[10]

Pursuant to NYSE Alternext Equities Rule 124(c), after odd-lot market orders and marketable odd-lot limit orders are received by the Odd-lot System, they are automatically executed at the price of the next round-lot transaction in the subject security on the Exchange. Specifically, marketable odd-lot orders and marketable odd-lot limit orders are executed in time priority of receipt at the price of the next round-lot transaction, pursuant to the net process described in footnote 14 [*sic*]. The imbalance of marketable odd-lot orders that do not receive an execution as a result of the netting provision are executed in time priority of receipt at the price of the NBBO, subject to a volume limitation.[11] Any imbalances of odd-lot limit orders that were non-marketable upon receipt that subsequently become marketable receive an execution at their limit price.[12] Marketable odd-lot orders which would otherwise receive a partial

[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] PRL orders are for a size within the standard unit (round-lot) of trading, which is 100 shares for most stocks, but contains a portion that is smaller than the standard unit of trading, *e.g.* 199 shares. It should be noted that for certain securities trading on the NYSE Alternext Trading Systems the standard unit of trading is 10 shares.

[5] *See* SR–NYSE–2009–27 (to be filed March 11, 2009).

[6] *See* Securities Exchange Act Release No. 58673 (September 29, 2008), 73 FR 57707 (October 3, 2008) (SR–NYSE–2008–60 and SR–Amex 2008–62) (approving the Merger).

[7] 15 U.S.C. 78f.

[8] *See* Securities Exchange Act Release No. 58705 (October 1, 2008), 73 FR 58995 (October 8, 2008) (SR–Amex 2008–63) (approving the Equities Relocation).

[9] *See* NYSE Alternext Equities Rule 124(a).

[10] *Id.* Odd-lot orders are in effect netted against one another and executed; however, since the DMM is buying the same amount that he or she is selling, there is no economic consequence to the DMM in this type of pairing-off of orders. Any imbalance of buy or sell odd-lot market orders are executed against the DMM, up to the size of the round-lot transaction or the BID/OFFER size which ever is less.

[11] The volume limitation in section (c) of the rule is defined as the lesser of either the number of shares in the last round-lot transaction or the number of shares available at the national best bid (in the case of an odd-lot order to sell), or the national best offer (in the case of an odd-lot order to buy).

[12] Pursuant to NYSE Alternext Equities Rule 124(d) odd-lot limit orders that are non-marketable upon receipt that become marketable are eligible to be netted and executed at the price of the next round-lot transaction. If odd-lot limit orders do not receive an execution pursuant to the netting provision, then the orders are eligible to be executed, at its limit price, subject to the volume limitation of section (c) of the rule.

execution pursuant to the volume limitation are executed in full.[13]

Any marketable odd-lot orders that do not receive an execution because of the volume limitation are executed, in time priority of receipt at the price of the next round-lot transaction, following pricing and execution procedures described above. Marketable odd-lot orders (including odd-lot limit orders that were non-marketable upon receipt and subsequently become marketable) that remain unexecuted within 30 seconds of receipt will be executed, in time priority of receipt, at the price of the NBBO (or at its limit price if the order is a non-marketable odd-lot limit order upon receipt that has become marketable). These orders are also subject to the volume limitation.

Marketable odd-lot orders and non-marketable odd-lot limit orders that have become marketable and remain unexecuted prior to the close of trading shall be executed, in time priority of receipt at the price of the closing transaction, subject to the netting provision and a volume restriction which is not to exceed the size of the closing transaction.

The round-lot portion of a PRL is executed in the Exchange's round-lot system and the odd-lot portion is executed in the Odd-lot System only if no round-lot portion of the initial PRL order is cancelled.[14] Where more than one round-lot transaction is required to effect the complete execution of the round-lot portion of a PRL, the odd lot portion is executed only if the entire round-lot portion(s) of the PRL order as received by the Exchange is executed. Thereafter, the odd-lot portion is executed at the same price as the last round-lot transaction that is needed to completely execute all round-lot portions of the PRL.

Example

An order to sell 399 shares of security XYZ is received by Exchange systems at 12:00:00. The 99 share portion of the order is eligible for execution only after the 300 share portion of the PRL order is sold. See table below.

Time of execution	Number of shares	Price of execution	Customer receives
12:00:01	100	$30.22	Report of Execution 100 shares at a price of $30.22.
12:01:00	100	$30.21	Report of Execution 100 shares at a price of $30.22.
12:01:47	100	$30.22	Report of Execution 199 shares at a price of $30.22.
12:01:47	99	$30.22	

Proposed Amendment to Partial Round Lot Pricing

As explained above, NYSE Alternext Trading Systems are operated by the NYSE on behalf of the Exchange. Legacy systems operated by the NYSE that were responsible for sequencing order execution were unable to handle the number of variables necessary to track the odd-lot portion of a PRL order in the event a customer sought to cancel or replace his or her PRL. This systemic impediment required the Exchange to handle the execution of the odd-lot portion of a PRL differently from other odd-lot orders to ensure that customers were able to efficiently execute their PRL orders and receive timely information about the orders' status. Today, significant upgrades to the technology now make it possible for Exchange systems to price all odd-lot orders consistent with the provisions NYSE Alternext Equities 124(c) and (d).

The Exchange therefore proposes to amend NYSE Alternext Equities 124.40 to allow the odd-lot portion of PRLs to be executed in the Odd-lot System pursuant to the pricing provisions of NYSE Alternext Equities 124. The Exchange will continue to execute the odd-lot component of a PRL only if the entire round-lot portion(s) of the order as received by Exchange system is executed. The odd-lot portion of the PRL will retain the time stamp of its original entry as a PRL and would be sequenced for execution based on its initial entry time. Once all round lot components of the PRL are fully executed, the odd-lot portion of the order will be executed at a price consistent with other odd-lot orders subject to the provisions of NYSE Alternext Equities Rule 124(c) and (d).

Example

A marketable order to sell 399 shares of security XYZ is received by Exchange systems at 12:00:00. The 99 share portion of the order is eligible for execution only after the 300 share portion of the PRL order is sold. See table below.

Time of execution	Number of shares	Price of execution	Customer receives
12:00:01	100	$30.22	Report of Execution 100 shares at a price of $30.22.
12:01:00	100	30.21	Report of Execution 100 shares at a price of $30.21.
12:01:47	100	30.22	Report of Execution 100 shares at a price of $30.22.
12:01:48	99	[15] 30.23	Report of Execution 99 shares at a price of $30.23.

The Exchange proposed amendment to NYSE Alternext Equities 124.40, will ensure that all odd-lots executed on the Exchange receive consistent pricing regardless of whether the order is received as an odd-lot order or a PRL.

The Exchange will commence implementation of the proposed systemic change to execute the odd-lot portion of a PRL order pursuant to the same pricing methodology used for odd-lot orders on or about March 16, 2009. The Exchange intends to progressively implement this systemic change for PRLs on a security by security basis as it gains experience with the new technology until it is operative in all securities traded on the Floor. During the implementation, the Exchange will identify on its Web site which securities have been transitioned to the new system.

[13] As with marketable odd-lot orders, non-marketable odd-lot limit orders which would otherwise receive a partial execution will be executed in full. Non-marketable odd-lot limit orders that become marketable, that remain unexecuted within 30 seconds of receipt will be executed, in time priority of receipt, except that the orders will be executed at its limit price.

[14] *See* NYSE Alternext Equities Rule 124.40.

[15] This example assumes that the odd-lot portion of the PRL had priority of execution in the Odd-lot system because its original order entry time was 12:00:00.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [16] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The instant proposal is in keeping with these principles in that it seeks to price the execution of all odd-lot orders pursuant to one pricing methodology now that the Exchange systemic impediments to the implementation of one pricing methodology are removed.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change is filed pursuant to paragraph (A) of Section 19(b)(3) [17] and Rule 19b–4(f)(5).[18] This proposed rule change effects a change in an existing order entry or trading system of a self-regulatory organization that: (A) Does not significantly affect the protection of investors or the public interest; (B) does not impose any significant burden on competition; and (C) does not have the effect of limiting the access to or availability of the system. The proposed filing does not in any way limit access to the Exchange's odd-lot system; rather, the changes are the result of technological advancements which remove the systemic impediments that previously restricted the Exchange's ability to execute all odd-lots pursuant to a the same pricing methodology. In so far as, the proposal ensures that all odd-lot orders are priced in the same manner, it promotes the protection of investors and serves the public interest without imposing a significant burden on competition.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEALTR–2009–27 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEALTR–2009–27. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEALTR–2009–27 and should be submitted on or before April 17, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–6829 Filed 3–26–09; 8:45 am]

BILLING CODE

[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(5).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59609; File No. SR–NYSEArca–2009–23]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Arca, Inc. Amending Rule 6.47 To Remove Obsolete Text Related to the SizeQuote Pilot Program

March 20, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on March 16, 2009, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II, which Items have been prepared by the self-regulatory organization. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules in order to remove obsolete rule text related to the SizeQuote Pilot Program. The text of the proposed rule change is attached as Exhibit 5 to the Form 19b–4. A copy of this filing is available on the Exchange's Web site at *http://www.nyse.com*, at the Exchange's principal office and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to remove obsolete text from Rule 6.47 pertaining to the Exchange's SizeQuote Pilot Program (''Pilot Program''). The Pilot Program, which was initially established in 2005 [5] and had been extended in three subsequent filings,[6] expired on February 15, 2009.

After analyzing the effectiveness of the Pilot Program, the Exchange determined that it did not meet its stated objectives and therefore the Exchange did not extend the program past its expiration on February 15, 2009. This filing simply serves to remove the obsolete rules related to the Pilot Program.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) [7] of the Act, in general, and furthers the objectives of Section 6(b)(5),[8] in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade and to protect investors and the public interest. This filing is intended to remove outdated and obsolete rule text that may be confusing to market participants that are subject to the Exchange rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6)(iii) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6) [13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because such waiver will enable the Exchange to delete obsolete rule text without delay. The Commission notes that the text relates to a pilot program that has already expired and therefore deletion of the related text does not raise any novel or significant regulatory issues. Therefore, the Commission designates the proposed rule change as operative upon filing.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2009–23 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2009–23. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at NYSE

[5] *See* Securities Exchange Act Release No. 51576 (April 19, 2005), 70 FR 21488 (April 26, 2005).

[6] *See* Securities Exchange Act Release No. 53315 (Feb. 15, 2006) 71 FR 9406 (Feb. 23, 2006), Securities Exchange Act Release No. 55312 (Feb. 16, 2007) 72 FR 8827 (Feb. 27, 2007), Securities Exchange Act Release No. 57412 (March 3, 2008) 73 FR 12492 (March 7, 2008).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied the pre-filing requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the operative date of this proposal, the Commission has considered the rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Arca's principal office. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2009–23 and should be submitted on or before April 17, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–6825 Filed 3–26–09; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59617; File No. SR–NYSEArca–2009–19]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Amending Rule 6.37A—Obligations of Market Makers-OX

March 20, 2009.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on March 16, 2009, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. NYSE Arca filed the proposed rule change as a ''non-controversial'' proposal pursuant to Section 19(b)(3)(A) of the Act[4] and Rule 19b–4(f)(6) thereunder,[5] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange Rule 6.37A—Obligations of Market Makers-OX. The text of the proposed rule change is attached as Exhibit 5. A copy of this filing is available on the Exchange's Web site at *http://www.nyse.com*, at the Exchange's principal office and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to adopt a provision which will allow the Exchange to establish different quote differentials other than what is provided for in Rule 6.37A(b)(5). The proposed rule language is substantially similar to what has been approved for, and is presently in place at, the Chicago Board Options Exchange (''CBOE'').[6]

Pursuant to Rule 6.37A(b), Market Makers on NYSE Arca are required to submit electronic quotations within certain bid/ask differentials. Subsection (5) of this rule states that following an Auction, options traded on NYSE Arca may be quoted with a difference not to exceed $5 between the bid and offer. NYSE Arca now proposes to add a provision that will allow the Exchange to establish different bid/ask differentials for certain series.

Situations may arise where the $5 differential provided for in Rule 6.37A(b)(5) is overly restrictive; this has shown to be the case when extreme market fluctuations, coupled with increased volatility in an underlying security makes it extremely difficult to accurately calculate the price of given options series. To address these concerns, the CBOE has established modified bid/ask differentials in certain options series, pursuant to CBOE Rule 8.7(b)(iv).[7] This proposed rule change seeks only to allow the Exchange to offer NYSE Arca Market Makers the same quote relief that is offered to Market Makers on the CBOE.

The Exchange envisions establishing quote differentials wider than $5 in very limited situations. In addition, if the Exchange were to establish modified bid/ask differentials it would do so with the contingency that the disseminated markets in affected series would remain competitive and remain narrower than the relief granted, whenever possible.

The CBOE rule states that it is ''the Exchange'' that may establish bid/ask differences other than what is provided for in their rules. NYSE Arca proposes that the decision to establish different quote differentials will be made by two Trading Officials.[8] In the case of NYSE Arca, two Trading Officials will collectively make the determination on behalf of the Exchange. This is the only difference between the CBOE rule text and the proposed rule text for NYSE Arca.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[9] in general, and furthers the objectives of Section 6(b)(5) of the Act[10] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange believes that the proposed rule change is appropriate in that it creates a mechanism whereas Market Makers will be able to provide two side quotations even in situations where it is difficult to accurately calculate the price of given options series.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

[6] *See* CBOE Rule 8.7(b)(iv)(C)(ii).

[7] *See* CBOE Bid/Ask Circular 09–02 (January 7, 2009) establishing modified bid/ask differentials pursuant to CBOE Rule 8.7(b)(iv).

[8] A Trading Official is an Exchange Employee that has been designated as such by the Chief Executive Officer, or the Chief Regulatory Officer, pursuant to Rule 6.1(b)(34).

[9] 15 U.S.C. 78f (b).

[10] 15 U.S.C. 78f (b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [11] and Rule 19b–4(f)(6) thereunder.[12] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(6)(iii) thereunder.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2009–19 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2009–19. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2009–19 and should be submitted on or before April 17, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–6831 Filed 3–26–09; 8:45 am]

BILLING CODE 8010–01–P

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied the pre-filing requirement.

[15] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 11677 and # 11678]

Oregon Disaster Number OR–00029

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Oregon (FEMA–1824–DR), dated 03/02/2009.

Incident: Severe Winter Storm, Record and Near Record Snow, Landslides, and Mudslides.

Incident Period: 12/20/2008 through 12/26/2008.

Effective Date: 03/18/2009.

Physical Loan Application Deadline Date: 05/01/2009.

Economic Injury (EIDL) Loan Application Deadline Date: 12/02/2009.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of OREGON, dated 03/02/2009, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Tillamook.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Roger B. Garland,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E9–6849 Filed 3–26–09; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2009–13]

Petition for Exemption; Summary of Petition 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 a special condition. 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 the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number

involved and must be received on or before April 16, 2009.

ADDRESSES: You may send comments identified by Docket Number FAA–2009–0041 using any of the following methods:

- *Government-Wide Rulemaking Web Site*: Go to *http://www.regulations.gov* and follow the instructions for sending 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 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 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: Mark Forseth, Transport Airplane Directorate, ANM–113, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057–3356, fax 425–227–1320, telephone 425–227–2796.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on March 24, 2009.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2009–0041.

Petitioner: International Lease Finance Corporation (ILFC).

Description of Relief Sought: ILFC requests relief from the requirements of Special Conditions No. 25–367–SC, for seat installations on two Boeing Model 777 Series airplanes. Due to seat-weight constraints, the seats contain composite handrails that may not comply with the heat-release and smoke-emission testing requirements.

[FR Doc. E9–6893 Filed 3–26–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Safety Advisory 2009–01

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of safety advisory; side sill failure of ACF Center Flow® Covered Hopper Cars.

SUMMARY: FRA is recommending inspection and, when necessary, repair of American Car and Foundry (ACF) Center Flow® Covered Hopper Cars, when appropriate. These cars have a history of side sill failure. On April 16, 2008, FRA was notified that car CSXT 254526, an ACF Center Flow® Covered Hopper Car, experienced a catastrophic side sill failure. Both sides of the side sill, the side sheet, and the roof fractured. As a result, the A-end of the car was pulled away from the rest of the car body.

FOR FURTHER INFORMATION CONTACT: Tom Blankenship, Mechanical Engineer, MP&E Division (RRS–14); FRA Office of Safety Assurance and Compliance, 1200 New Jersey Avenue, SE., Washington, DC 20590, telephone: (202) 493–6446.

SUPPLEMENTARY INFORMATION: ACF Center Flow® Covered Hopper Cars have a history of side sill failures. Records from 1999 indicate ACF has constructed approximately 120,000 center flow cars since 1978 using this side sill design. On May 14, 1979, the Association of American Railroads (AAR) issued Circular Letterc–5162 notifying railroads that a number of ACF Center Flow® Covered Hopper Cars were discovered with side sill cracks, and recommended that the cars be inspected. ACF issued Procedure Number P064, ''Maintenance of Side Sills-Body Bolster Area,'' in 1989, providing detailed instructions for inspection and repair of all ACF Center Flow® Covered Hopper Cars. On February 19, 1999, AAR issued Maintenance Advisory MA–53, (c–8991), advising the industry of additional side sill failures on ACF Center Flow® Covered Hopper Cars.

As a result of the above-referenced incident that occurred on April 16, 2008, CSX Transportation, Inc., (CSXT) has recently taken additional action by issuing inspection and repair instructions for its cars (CSXT Car Maintenance Instruction 13–1004, dated April 28, 2008). The instructions provide guidance on how to properly inspect and handle the ACF Center Flow® Covered Hopper Cars.

Recommended Action: Recognizing the need to ensure safety, FRA recommends that railroads and car owners that operate the ACF Center Flow® Covered Hopper Cars inspect, and when necessary, repair and reinforce the side sills (at four locations) using ACF Procedure Number P064 (dated January 31, 1994). This ACF Procedure Number P063 may be obtained by contacting Mr. Roger Dalske,Manager–Product Engineering, American Railcar Industries, at (636) 940–6185;e-mail: *rdalske@americanrailcar.com.*

FRA may modify this Safety Advisory (2009–01), issue additional safety advisories, or take other appropriate action it deems necessary to ensure the highest level of safety on the Nation's railroads.

Issued in Washington, DC, on March 24, 2009.

Grady C. Cothen, Jr.,

Acting Associate Administrator for Railroad Safety/Chief Safety Officer.

[FR Doc. E9–6919 Filed 3–26–09; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Intent To Prepare an Environmental Impact Statement for Transit Improvements in the Westside Extension Transit Corridor, Los Angeles, CA

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The Federal Transit Administration (FTA) and the Los Angeles County Metropolitan Transportation Authority (LACMTA) intend to prepare an Environmental Impact Statement (EIS) for the proposed transit improvements in the Westside Extension Transit Corridor in Los Angeles County, California. The proposed project would provide for transit improvements within the Westside Extension Transit Corridor.

The EIS will be prepared in accordance with the requirements of the National Environmental Policy Act

(NEPA) and its implementing regulations, as well as provisions of the recently enacted Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. LACMTA will also use the EIS document to comply with the California Environmental Quality Act (CEQA), which requires an Environmental Impact Report (EIR). The purpose of this notice is to alert interested parties regarding the intent to prepare the EIS to provide information on the nature of the proposed project and possible alternatives, to invite public participation in the EIS process (including providing comments on the scope of the Draft Environmental Impact Statement (DEIS), to announce that public scoping meetings will be conducted, and to identify participating and cooperating agency contacts.

DATES: Written comments on the scope of the EIS, should be sent to LACMTA on or before May 7, 2009 at the address below. Public scoping meetings to accept comments on the scope of the EIS/EIR will be held on the following dates:

- Monday, April 13, 2009, from 6 p.m. to 8 p.m., at Los Angeles County Museum of Art, 5905 Wilshire Boulevard, Los Angeles, CA 90036.
- Tuesday, April 14, 2009, from 6 p.m. to 8 p.m., at Plummer Park, 7377 Santa Monica Boulevard, West Hollywood, CA 90046.
- Thursday, April 16, 2009, from 6 p.m. to 8 p.m., at Beverly Hills Public Library, 444 N. Rexford Drive, Beverly Hills, CA 90210.
- Monday, April 20, 2009, from 6 p.m. to 8 p.m., at Westwood Presbyterian Church, 10822 Wilshire Boulevard, Los Angeles, CA 90024.
- Thursday, April 23, 2009, from 6 p.m. to 8 p.m., at Santa Monica Public Library, 601 Santa Monica Boulevard, Santa Monica, CA 90401.

The project's purpose and need, and the description of alternatives for the proposed project will be presented at these meetings. The buildings used for the scoping meetings are accessible to persons with disabilities. Any individual who requires special assistance, such as a sign language interpreter, to participate in a scoping meeting should contact Ms. Jody Litvak, Community Relations Manager, Los Angeles County Metropolitan Transportation Authority (LACMTA) at 213–922–1240, or *litvakj@metro.net*.

Scoping materials will be available at the meetings and on the LACMTA Web site (*http://www.metro.net/westside*). Paper copies of the scoping materials may also be obtained from Ms. Jody Litvak, Community Relations Manager, LACMTA, at 213–922–1240, or *litvakj@metro.net*. An interagency scoping meeting will be held on Monday, April 13, 2009 from 10 a.m. to 12 p.m. at the LACMTA, in the Windsor Conference Room, 15th Floor, One Gateway Plaza, Los Angeles, CA 90012. Representatives of Native American tribal governments and of all Federal, State, regional and local agencies that may have an interest in any aspect of the project will be invited to be participating or cooperating agencies, as appropriate.

ADDRESSES: Written comments should be sent to Mr. David Mieger, AICP, Project Director and Deputy Executive Officer, Los Angeles County Metropolitan Transportation Authority (LACMTA), One Gateway Plaza, Los Angeles, CA 90012, phone 213–922–3040, e-mail address *miegerd@metro.net.*

FOR FURTHER INFORMATION CONTACT: Mr. Ray Tellis, Team Leader, Los Angeles Metropolitan Office, Federal Transit Administration, 888 South Figueroa Street, Suite 1850, Los Angeles, CA 90017, phone 213–202–3950, e-mail *ray.tellis@dot.gov*.

SUPPLEMENTARY INFORMATION:

The Proposed Project

The proposed subway extension project is in western Los Angeles County and includes portions of five jurisdictions: the Cities of Los Angeles, West Hollywood, Beverly Hills, Santa Monica, as well as portions of unincorporated Los Angeles County. The project is generally bounded by the Santa Monica Mountains along Hollywood, Sunset and San Vicente Boulevards, east to the Metro Rail stations at Hollywood/Highland and Wilshire/Western, south to Pico Boulevard, and west to the Pacific Ocean. Project length for the Wilshire Boulevard Subway Alignment Heavy Rail (Alternative 1) is 12.5 miles extending from the Metro Purple Line Wilshire/Western Station to 4th Street and Wilshire Boulevard in Santa Monica and would include 10 stations and 1 optional station. Wilshire/Santa Monica Boulevards Combined HRT Subway (Alternatives 11) includes the full Wilshire Boulevard HRT Subway and adds a second line extending west from the Metro Red Line Hollywood/Highland Station via Santa Monica Boulevard to join the Wilshire Line in Beverly Hills. The total combined line is 17 miles long and includes 14 stations and 1 optional station. Population and employment densities in the Project area are among the highest in the metropolitan region, averaging approximately 13,100 persons per square mile and 12,500 jobs per square mile. These high population and employment concentrations make the Project Area one of the densest places to live and work in the county.

The proposed Westside Extension project would offer a viable alternative to driving in the heavily congested Project Area. The mobility improvements offered by such a system will improve job accessibility for transit-dependent residents within, as well as outside, the Project Area, as well as greater Los Angeles, and improve transportation equity for all population groups. The high-quality transit solution will complement existing transit-supporting land uses and present new opportunities for mixed-use and high-density development in the Project Area.

The various alternatives to be considered for the Westside Extension project generally traverse Wilshire Boulevard from the Metro Purple Line Wilshire/Western station to 4th Street and Wilshire Boulevard in Santa Monica (Alternative 1), and a second line extending west from the Metro Red Line Hollywood/Highland Station via Santa Monica Boulevard to join the Wilshire Line in Beverly Hills (Alternative 11).

Purpose and Need for the Project

The purpose of the project is to address the mobility needs of residents, workers, and visitors traveling to, from, and within the highly congested Westside Extension Study Area by providing faster and more reliable high-capacity public transportation than existing services which operate in mixed-flow traffic. This proposed subway improvement will bring about a significant increase in east-west capacity and improvement in person-mobility by reducing transit travel time. On a county-wide level, the project will strengthen regional access by connecting Metro bus, Metro rail, and Metrolink networks to a high-capacity transit serving the Study Area. The overall goal of the project is to improve mobility in the Westside Extension Transit Corridor by extending the benefits of the existing Metro Red/Metro Purple Line rail and bus services beyond their current termini near Highland Avenue and/or Western Avenue in Los Angeles as far as Ocean Avenue in Santa Monica.

Mobility problems and the need for improvements in this corridor have been well documented in many studies, including the numerous Metro Red Line planning studies, Southern California Association of Governments (SCAG)

planning studies, the Mid-City/Westside Transit Corridor Re-Evaluation/Major Investment Study (2000), the Metro Rapid Demonstration Project (2000), the Mid-City/Westside Transit Corridor Draft EIS/EIR (2001), the American Public Transit Association Review of Wilshire Corridor Tunneling (2005), and in the Southern California Association of Governments Regional Transportation Plan (2008).

Most recently, an Alternatives Analysis Study for the Westside Extension Transit Corridor as required by 49 U.S.C. 5309 for New Starts-funded projects, was completed and, was adopted by the LACMTA Board of Directors on January 22, 2009, and is available for review on the project Web site at *http://www.metro.net/westside.* The public and participating and cooperating agencies are invited to consider and comment on this statement of the purpose and need for the proposed subway project.

Alternatives

The Westside Extension proposes to extend the Metro Rail heavy rail technology westward from the terminus of the Metro Purple Line at the Wilshire/Western station and potentially a second leg from the Metro Red Line at the Hollywood/Highland station. The Alternatives Analysis (AA) Study was completed in January 2009. The process began with the identification of initial conceptual alternatives and early public and agency scoping. Then a set of 17 initial conceptual alternatives was identified, screened, and narrowed down to a most promising set of five alternatives. These five alternatives were then evaluated at a more detailed level and as a result, the following two subway alignment alternatives plus the No Build and Transportation Systems Management (TSM) alternatives were recommended to be carried forward for analysis in the EIS:

Wilshire Boulevard Alignment Heavy Rail Transit (HRT) Subway: This alternative alignment extends underground from the Metro Purple Line Wilshire/Western station to 4th Street and Wilshire Boulevard in Santa Monica. It has 10 stations and 1 optional station. The alignment is generally under Wilshire Boulevard with various route alignments between Century City and Santa Monica.

Wilshire/Santa Monica Boulevard Combined HRT Subway: This alignment alternative extends underground from the Metro Purple Line Wilshire/Western station and from the Metro Red Line at the Hollywood/Highland station to 4th Street and Wilshire Boulevard in Santa Monica. It has 14 stations and 1 optional station.

This alternative has two alignment options in the Beverly Center area. One option follows San Vicente Boulevard from Santa Monica Boulevard to La Cienega Boulevard, where it curves south and then west to meet the Wilshire Boulevard alignment. The second option follows La Cienega Boulevard from Santa Monica Boulevard, past the Beverly Center, and curves west at Wilshire Boulevard.

Minimum Operable Segments: A total of four Minimum Operable Segment Alternatives will be included for analysis including the following: (1) Wilshire Boulevard HRT Subway from Wilshire/Western to Fairfax (3 miles); (2) Wilshire Boulevard HRT Subway from Wilshire/Western to Century City (6.5 miles); (3) Wilshire Boulevard HRT Subway from Wilshire/Western to Westwood/UCLA vicinity (8 to 9.5 miles); and (4) MOS #3 plus Metro Red Line HRT Subway from Hollywood/Highland via Santa Monica Boulevard (12.5 to 14 miles).

No Build Alternative: This EIS will also consider the No Build Alternative that includes all existing highway and transit services and facilities and the committed highway and transit projects in the current LACMTA Long Range Transportation Plan and the current 2008 Southern California Association of Governments' Regional Transportation Plan. No new infrastructure would be built within the Study Area, aside from projects currently under construction, or funded for construction and operation by 2030 by the recently approved Measure R and identified in the LACMTA Long Range Transportation Plan. Proposed major highway improvements affecting the Westside Extension Transit Corridor between now and 2030 include completing missing segments of high occupancy vehicle (HOV) lanes on Interstate 405 (I–405) Freeway. From a rail transit perspective, the No Build Alternative includes the Metro Purple and Metro Red Lines along the eastern and northeastern edges of the study area. This alternative also includes a rich network of local, express, and Metro Rapid bus routes that will continue to be provided, with both bus route and additions and modifications proposed.

Transportation System Management (TSM) Alternative: The EIS will also consider the TSM Alternative which enhances the No Build Alternative and improves upon the existing Metro Rapid Bus service and local bus service in the Westside Extension Transit Corridor study area. This alternative emphasizes more frequent service and low cost capital and operations improvements to reduce delay and enhance mobility. Although the frequency of service is already very good, this alternative considers improved bus services during peak periods on selected routes.

In addition to the alternatives described above, other transit alternatives not previously considered in the Alternatives Analysis Study and brought forward during the public and agency scoping process will be evaluated for potential inclusion in the EIS.

The EIS Process and the Role of Participating Agencies and the Public

The purpose of the EIS process is to explore, in a public setting, the effects of the proposed project and its alternatives on the physical, human, and natural environment. The FTA and LACMTA will evaluate all significant environmental, social, and economic impacts of the construction and operation of the proposed subway project. Impact areas to be addressed include: transportation, land use and development, land acquisition, displacements and relocations, cultural resources (including historical, archaeological and paleontological resources and parklands/recreation areas), community and neighborhood compatibility and environmental justice, visual and aesthetic impacts, natural resources (including air quality, wetlands, water resources, noise, vibration), climate change and energy use, safety and security, geotechnical factors (including subsurface and seismic hazards) and hazardous materials, and wildlife and ecosystems (including endangered species). Measures to avoid, minimize, and mitigate all adverse impacts will be identified and evaluated.

The regulations implementing NEPA, including the provisions of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), call for public involvement in the EIS process. Section 6002 of SAFETEA–LU requires that FTA and LACMTA do the following: (1) Extend an invitation to other Federal and non-Federal agencies and Native American tribes that may have an interest in the proposed project to become ''participating agencies;'' (2) provide an opportunity for involvement by participating agencies and the public to help define the purpose and need for a proposed project, as well as the range of alternatives for consideration in the EIS; and (3) establish a plan for coordinating public and agency participation in, and comment on, the environmental review process. An

invitation to become a participating or cooperating agency, with scoping materials appended, will be extended to other Federal and non-Federal agencies and Native American tribes that may have an interest in the proposed project. It is possible that FTA and LACMTA will not be able to identify all Federal and non-Federal agencies and Native American tribes that may have such an interest. Any Federal or non-Federal agency or Native American tribe interested in the proposed project that does not receive an invitation to become a participating agency should notify at the earliest opportunity the Project Manager identified above under **ADDRESSES**.

A comprehensive public involvement program and a Coordination Plan for public and interagency involvement will be developed for the project and posted by LACMTA on the project Web page at http://*www.metro.net/westside*. The public involvement program includes a full range of activities including a public scoping process to define the issues of concern among all parties interested in the project: a project Web page on the LACMTA Web site, development and distribution of project newsletters, and other information pieces: outreach to local officials, community and civic groups, periodic meetings with various local agencies, organizations, and committees, the general public, and a public hearing on release of the draft environmental impact statement (DEIS). Specific activities or events for involvement will be detailed in the public involvement program.

LACMTA may seek New Starts funding for the proposed project under 49 United States Code 5309 and will, therefore, be subject to New Starts regulations (49 Code of Federal Regulations (CFR) part 611). The New Starts regulation requires a planning Alternatives Analysis that leads to the selection of a Locally Preferred Alternative and the inclusion of this alternative in the long-range transportation plan adopted by the LACMTA and Southern California Association of Governments. LACMTA has completed the planning Alternatives Analysis Study in January 2009. The New Starts regulations also require the submission of certain project-justification information to support a request to initiate preliminary engineering. This information is normally developed in conjunction with the NEPA process. Pertinent New Starts evaluation criteria will be included in the EIS.

The EIS will be prepared in accordance with the National Environmental Policy Act and its implementing regulations issued by the Council on Environmental Quality (40 CFR parts 1500–1508) and with the FTA/Federal Highway Administration regulations ''Environmental Impact and Related Procedures'' (23 CFR part 771). In accordance with 23 CFR 771.105(a) and 771.133, FTA will comply with all Federal environmental laws, regulations, and executive orders applicable to the proposed project during the environmental review process to the maximum extent practicable. These requirements include, but are not limited to, the environmental and public hearing provisions of Federal transit laws (49 U.S.C. 5301(e), 5323(b), and 5324); the project-level air quality conformity regulation of the U.S. Environmental Protection Agency (EPA) (40 CFR part 93); the section 404(b)(1) guidelines of EPA (40 CFR part 230); the regulation implementing section 106 of the National Historic Preservation Act (36 CFR part 800); the regulation implementing section 7 of the Endangered Species Act (50 CFR part 402); section 4(f) of the Department of Transportation Act (23 CFR 771.135); and Executive Orders 12898 on environmental justice, 11988 on floodplain management, and 11990 on wetlands.

Issued on: March 24, 2009.

Leslie T. Rogers,

Regional Administrator, Federal Transit Administration, Region IX.

[FR Doc. E9–6917 Filed 3–26–09; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Notice of Limitation on Claims Against a Proposed Public Transportation Project

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of limitation on claims.

SUMMARY: This notice announces final environmental action taken by the Federal Transit Administration (FTA) for the Mid-City/Exposition Transit Corridor Light Rail Transit Project in Los Angeles, California. The purpose of this notice is to announce the decision by FTA to not perform supplemental review under the National Environmental Policy Act (NEPA) on the subject project and to activate the limitation on any claims that may challenge this final agency action. This notice does not alter or extend the limitation period of 180 days for challenge of project decisions subject to a previous notice published in the **Federal Register** on August 17, 2006.

DATES: By this notice, FTA is advising the public of final agency action subject to Title 23, United States Code (U.S.C.), section 139(l). A claim seeking judicial review of the FTA action announced herein for the listed public transportation project will be barred unless the claim is filed on or before September 23, 2009.

FOR FURTHER INFORMATION CONTACT: Elizabeth Zelasko, Environmental Protection Specialist, Office of Planning and Environment, 202–366–0244, or Christopher Van Wyk, Attorney-Advisor, Office of Chief Counsel, 202–366–1733. FTA is located at 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours are from 9 a.m. to 5:30 p.m., EST, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FTA has taken final agency action by issuing certain approvals for the public transportation project listed below. This notice applies to all FTA decisions on the listed project since FTA published its notice concerning this project in the **Federal Register** on August 17, 2006, and all laws under which such actions were taken, including, but not limited to, the National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4375], Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303], Section 106 of the National Historic Preservation Act [16 U.S.C. 470f], and the Clean Air Act [42 U.S.C. 7401–7671q]. This notice describes the discrete action taken for which the 180-day statute of limitations will apply. Nothing in this notice affects FTA's previous decisions, or notice thereof, for this project.

The final agency environmental decision documents—the Record of Decision (ROD) and the ROD Addendum—for the listed project are available online at *http://www.fta.dot.gov/planning/environment/planning_environment_documents.html* or may be obtained by contacting the FTA Regional Office for the metropolitan area where the project is located. Contact information for the FTA Regional Offices may be found at *http://www.fta.dot.gov*.

The project and action that are the subject of this notice are:

Project name and location: Mid-City/Exposition Transit Corridor Light Rail Transit (LRT) Project, Los Angeles, California. *Project sponsor:* Los Angeles County Metropolitan Transportation Authority (LACMTA). *Project*

description: The Mid-City/Exposition Corridor Project is an LRT project that will run 8.6 miles from 7th Street/Metro Center Station in downtown Los Angeles to the intersection of Venice and Robertson Boulevards in Culver City. The LRT will operate in a dual-track configuration mainly at-grade on existing streets or in a street-median right-of-way owned by LACMTA. The project includes nine new LRT stations and three grade separations: one below grade segment at Flower and Figueroa Streets; an aerial segment at La Brea Avenue; and an aerial segment at La Cienega Boulevard, extending over Jefferson Boulevard and the Ballona Creek to Fay Avenue in Culver City. *Final Agency Actions:* FTA has reviewed information provided by LACMTA on project enhancements proposed since the FTA issued the ROD on February 24, 2006. These project enhancements include the addition of the new University of Southern California (USC)/Expo Park station adjacent to the U.S.C. campus and Expo Park museums near downtown Los Angeles, the addition of the new aerial Venice/Robertson Station and Structure at the eastern terminus in Culver City to replace the interim at-grade Washington/National Station, and the addition of a Storage and Inspection facility. The Storage and Inspection facility will supplement the planned Mid-day Layover facility and replace the Operations and Maintenance facility that was originally planned to be located on property adjacent to the existing Metro Division 11 facility in Carson, California. The newly added USC/Expo Park station and the newly added aerial Venice/Robertson Station were fully evaluated in the Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR). The Storage and Inspection Facility was evaluated pursuant to 23 CFR Section 771.130(c), and approved in subsequent action whereby FTA determined that no new or changed significant impacts from those evaluated in the Final EIS/EIR would occur. *Supporting documentation:* ROD Addendum signed on March 10, 2009 and the Mid-City/Exposition Transit Corridor Light Rail Transit Project Final EIS/EIR.

Issued on: March 20, 2009.

Susan Borinsky,

Associate Administrator for Planning and Environment, Washington, DC.

[FR Doc. E9–6803 Filed 3–26–09; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2009–0027]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel *Archangel*.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2009–0027 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before April 27, 2009.

ADDRESSES: Comments should refer to docket number MARAD–2009–0027. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel *Archangel* is:

Intended Use: ''Occasional crewed charter.''

Geographic Region: ''RI, MA, MD''.

Privacy Act

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

Dated: March 23, 2009.

By Order of the Maritime Administrator.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. E9–6913 Filed 3–26–09; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2009 0025]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel *Mango*.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2009–0025 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S.

vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before April 27, 2009.

ADDRESSES: Comments should refer to docket number MARAD–2009–0025. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel

Mango is:

Intended Use: ''Sailing charters trips.''

Geographic Region:''Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, and Maine''.

Privacy Act

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

Dated: March 23, 2009.

By Order of the Maritime Administrator.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. E9–6916 Filed 3–26–09; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2009 0026]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel *Options*.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2009–0026 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before April 27, 2009.

ADDRESSES: Comments should refer to docket number MARAD–2009–0026. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel *Options* is:

Intended Use: ''Sport fishing charter.''

Geographic Region: ''California''.

Privacy Act

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

Dated: March 23, 2009.

By Order of the Maritime Administrator.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. E9–6918 Filed 3–26–09; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[NHTSA Docket No. NHTSA–2009–0058]

National Emergency Medical Services Advisory Council (NEMSAC); Notice of teleconference meeting.

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: National Emergency Medical Services Advisory Council (NEMSAC); Notice of teleconference meeting.

SUMMARY: The NHTSA announces a teleconference meeting of NEMSAC to be held in April 2009. This notice announces the date, time and call-in information for the meeting, which will be open to the public. The purpose of NEMSAC is to provide a nationally recognized council of emergency medical services representatives and consumers to provide advice and recommendations regarding Emergency Medical Services (EMS) to the U.S. DOT's NHTSA.

DATES: The teleconference meeting will be held on April 16, 2009, from 1 p.m. to 3 p.m. A public comment period will take place on April 16, 2009, between 2:15 p.m. to 2:30 p.m.

Comment Date: Written comments or requests to make oral presentations must be received by April 9, 2009.

ADDRESSES: The meeting will be held via teleconference only. Members of the public who wish to obtain the call-in number, access code, and other information for the public teleconference may contact Drew Dawson as listed in the **FOR FURTHER INFORMATION CONTACT** section by April 9, 2009. Persons wishing to make an oral presentation or who are unable to join the teleconference meeting may submit written comments. Written comments and requests to make oral presentations at the meeting should reach Drew Dawson at the address listed below and must be received by April 9, 2009.

All submissions received must include the docket number, NHTSA–2009–0058, and may be submitted by any one of the following methods: You may submit or retrieve comments Online through the Document Management System (DMS) at *http://www.regulations.gov/* under the docket number listed at the beginning of this notice. The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help guidelines are available under the help section of the Web site.

An electronic copy of this document may be downloaded from the **Federal Register's** home page at *http://www.archives.gov* and the Government Printing Office's database at *http://www.access.gpo.gov/nara*. Please note that even after the comment closing date, we will continue to file relevant information in the docket as it becomes available.

E-mail: drew.dawson@dot.gov or *susan.mchenry@dot.gov.*

Fax: (202) 366–7149.

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

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act (FACA), Public Law 92–463, as amended (5 U.S.C. App. 1 *et seq.*) The NEMSAC will be holding its fifth meeting on Thursday, April 16, 2009, via teleconference.

Agenda of Council Teleconference Meeting, April 16, 2009

The tentative agenda includes the following:

Thursday, April 16, 2009.

(1) Opening Remarks—Chair and DFO;

(2) Introduction of Members and all in attendance;

(3) Review and Approval of Minutes of last Meeting;

(4) Committee Reports and Discussion.

(5) Public Comment Period;

(6) Next Steps and Future Meetings.

A public comment period will take place on April 16, 2009, between 2:15 p.m. and 2:30 p.m. Public Attendance: The meeting is open to the public. Persons with disabilities who require special assistance should advise Drew Dawson of their anticipated special needs as early as possible. Members of the public who wish to make comments on Thursday, April 16 between 2:15 p.m. and 2:30 p.m. are requested to register in advance. In order to allow as many people as possible to speak, speakers are requested to limit their remarks to 3 minutes. For those wishing to submit written comments, please follow the procedure noted above. This meeting will be open to the public. Individuals wishing to register must provide their name, affiliation, phone number, and e-mail address to Drew Dawson by e-mail at *drew.dawson@dot.gov* or by telephone at (202) 366–9966 no later than April 9, 2009. There will be limited call-in lines, so please register early. Pre-registration is necessary to enable proper arrangements.

Minutes of the NEMSAC Meeting will be available to the public online through the DOT Document Management System (DMS) at: *http://www.regulations.gov* under the docket number listed at the beginning of this notice.

Issued on: March 24, 2009.

Jeffrey P. Michael,

Associate Administrator for Research and Program Development.

[FR Doc. E9–6915 Filed 3–26–09; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request—Release of Non-Public Information

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3507. The Office of Thrift Supervision within the Department of the Treasury will submit the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. Today, OTS is soliciting public comments on its proposal to extend this information collection.

DATES: Submit written comments on or before May 26, 2009.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552; send a facsimile transmission to (202) 906–6518; or send an e-mail to *infocollection.comments@ots.treas.gov*. OTS will post comments and the related index on the OTS Internet Site at *http://www.ots.treas.gov*. In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov*, or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: You can request additional information about this proposed information collection from Mr. Ira L. Mills, (202) 906–6531, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the

approval process, we invite comments on the following information collection.

Comments should address one or more of the following points:

a. Whether the proposed collection of information is necessary for the proper performance of the functions of OTS;

b. The accuracy of OTS's estimate of the burden of the proposed information collection;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of the information collection on respondents, including through the use of information technology.

We will summarize the comments that we receive and include them in the OTS request for OMB approval. All comments will become a matter of public record. In this notice, OTS is soliciting comments concerning the following information collection.

Title of Proposal: Release of Non-Public Information.

OMB Number: 1550–0081.

Form Numbers: N/A.

Regulation requirement: 12 CFR part 510.5.

Description: OTS staff uses the information provided by the requesters to respond to their requests for unpublished information. The information enables the staff to locate and review responsive information, and to evaluate the burden to the agency and disruption of its supervisory activities more quickly than could be done without the information. OTS staff also uses the information to help determine whether the requester's need for the unpublished information outweighs the agency's confidentiality concerns.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 25.

Estimated Number of Responses: 25.

Estimated Frequency of Response: On occasion.

Estimated Total Burden: 125 hours.

Clearance Officer: Ira L. Mills, (202) 906–6531, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

Dated: March 23, 2009.

Deborah Dakin,

Senior Deputy Chief Counsel, Regulations and Legislation Division.

[FR Doc. E9–6817 Filed 3–26–09; 8:45 am]

BILLING CODE 6720–01–P

Federal Register

Friday,
March 27, 2009

Part II

Department of Health and Human Services

Centers for Medicare & Medicaid Services
Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—October through December 2008; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–9050–N]

Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—October Through December 2008

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

ACTION: Notice.

SUMMARY: This notice lists CMS manual instructions, substantive and interpretive regulations, and other **Federal Register** notices that were published from October 2008 through December 2008, relating to the Medicare and Medicaid programs. This notice provides information on national coverage determinations (NCDs) affecting specific medical and health care services under Medicare. Additionally, this notice identifies certain devices with investigational device exemption (IDE) numbers approved by the Food and Drug Administration (FDA) that potentially may be covered under Medicare. This notice also includes listings of all approval numbers from the Office of Management and Budget for collections of information in CMS regulations and a list of Medicare-approved carotid stent facilities. Included in this notice is a list of the American College of Cardiology's National Cardiovascular Data registry sites, active CMS coverage-related guidance documents, and special one-time notices regarding national coverage provisions. Also included in this notice is a list of National Oncologic Positron Emissions Tomography Registry sites, a list of Medicare-approved ventricular assist device (destination therapy) facilities, a list of Medicare-approved lung volume reduction surgery facilities, a list of Medicare-approved clinical trials for fluorodeoxyglucose positron emissions tomography for dementia, and a list of Medicare-approved bariatric surgery facilities.

Section 1871(c) of the Social Security Act requires that we publish a list of Medicare issuances in the **Federal Register** at least every 3 months. Although we are not mandated to do so by statute, for the sake of completeness of the listing, and to foster more open and transparent collaboration efforts, we are also including all Medicaid issuances and Medicare and Medicaid substantive and interpretive regulations (proposed and final) published during this 3-month time frame.

FOR FURTHER INFORMATION CONTACT: It is possible that an interested party may need specific information and not be able to determine from the listed information whether the issuance or regulation would fulfill that need. Consequently, we are providing contact persons to answer general questions concerning these items. Copies are not available through the contact persons. (See Section III of this notice for how to obtain listed material.)

Questions concerning CMS manual instructions in Addendum III may be addressed to Ismael Torres, Office of Strategic Operations and Regulatory Affairs, Centers for Medicare & Medicaid Services, C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–1864.

Questions concerning regulation documents published in the **Federal Register** in Addendum IV may be addressed to Gwendolyn Johnson, Office of Strategic Operations and Regulatory Affairs, Centers for Medicare & Medicaid Services, C4–14–03, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–6954.

Questions concerning Medicare NCDs in Addendum V may be addressed to Patricia Brocato-Simons, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–0261.

Questions concerning FDA-approved Category B IDE numbers listed in Addendum VI may be addressed to John Manlove, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–13–04, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–6877.

Questions concerning approval numbers for collections of information in Addendum VII may be addressed to Melissa Musotto, Office of Strategic Operations and Regulatory Affairs, Regulations Development and Issuances Group, Centers for Medicare & Medicaid Services, C5–14–03, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–6962.

Questions concerning Medicare-approved carotid stent facilities in Addendum VIII may be addressed to Sarah J. McClain, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–2994.

Questions concerning Medicare's recognition of the American College of Cardiology—National Cardiovascular Data Registry sites in Addendum IX may be addressed to JoAnna Baldwin, MS, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–7205.

Questions concerning Medicare's active coverage-related guidance documents in Addendum X may be addressed to Beverly Lofton, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–7136.

Questions concerning one-time notices regarding national coverage provisions in Addendum XI may be addressed to Beverly Lofton, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–7136.

Questions concerning National Oncologic Positron Emission Tomography Registry sites in Addendum XII may be addressed to Stuart Caplan, RN, MAS, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–8564.

Questions concerning Medicare-approved ventricular assist device (destination therapy) facilities in Addendum XIII may be addressed to JoAnna Baldwin, MS, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–7205.

Questions concerning Medicare-approved lung volume reduction surgery facilities listed in Addendum XIV may be addressed to JoAnna Baldwin, MS, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–7205.

Questions concerning Medicare-approved bariatric surgery facilities listed in Addendum XV may be addressed to Kate Tillman, RN, MA, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–9252.

Questions concerning fluorodeoxyglucose positron emission

tomography for dementia trials listed in Addendum XVI may be addressed to Stuart Caplan, RN, MAS, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–8564.

Questions concerning all other information may be addressed to Gwendolyn Johnson, Office of Strategic Operations and Regulatory Affairs, Regulations Development Group, Centers for Medicare & Medicaid Services, C5–14–03, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–6954.

SUPPLEMENTARY INFORMATION:

I. Program Issuances

The Centers for Medicare & Medicaid Services (CMS) is responsible for administering the Medicare and Medicaid programs. These programs pay for health care and related services for 39 million Medicare beneficiaries and 35 million Medicaid recipients. Administration of the two programs involves (1) furnishing information to Medicare beneficiaries and Medicaid recipients, health care providers, and the public and (2) maintaining effective communications with regional offices, State governments, State Medicaid agencies, State survey agencies, various providers of health care, all Medicare contractors that process claims and pay bills, and others. To implement the various statutes on which the programs are based, we issue regulations under the authority granted to the Secretary of the Department of Health and Human Services under sections 1102, 1871, 1902, and related provisions of the Social Security Act (the Act). We also issue various manuals, memoranda, and statements necessary to administer the programs efficiently.

Section 1871(c)(1) of the Act requires that we publish a list of all Medicare manual instructions, interpretive rules, statements of policy, and guidelines of general applicability not issued as regulations at least every 3 months in the **Federal Register**. We published our first notice June 9, 1988 (53 FR 21730). Although we are not mandated to do so by statute, for the sake of completeness of the listing of operational and policy statements, and to foster more open and transparent collaboration, we are continuing our practice of including Medicare substantive and interpretive regulations (proposed and final) published during the respective 3-month time frame.

II. How To Use the Addenda

This notice is organized so that a reader may review the subjects of manual issuances, memoranda, substantive and interpretive regulations, NCDs, and FDA-approved IDEs published during the subject quarter to determine whether any are of particular interest. We expect this notice to be used in concert with previously published notices. Those unfamiliar with a description of our Medicare manuals may wish to review Table I of our first three notices (53 FR 21730, 53 FR 36891, and 53 FR 50577) published in 1988, and the notice published March 31, 1993 (58 FR 16837). Those desiring information on the Medicare NCD Manual (NCDM, formerly the Medicare Coverage Issues Manual (CIM)) may wish to review the August 21, 1989, publication (54 FR 34555). Those interested in the revised process used in making NCDs under the Medicare program may review the September 26, 2003, publication (68 FR 55634).

To aid the reader, we have organized and divided this current listing into 11 addenda:

- Addendum I lists the publication dates of the most recent quarterly listings of program issuances.
- Addendum II identifies previous **Federal Register** documents that contain a description of all previously published CMS Medicare and Medicaid manuals and memoranda.
- Addendum III lists a unique CMS transmittal number for each instruction in our manuals or Program Memoranda and its subject matter. A transmittal may consist of a single or multiple instruction(s). Often, it is necessary to use information in a transmittal in conjunction with information currently in the manuals.
- Addendum IV lists all substantive and interpretive Medicare and Medicaid regulations and general notices published in the **Federal Register** during the quarter covered by this notice. For each item, we list the—
  - Date published;
  - **Federal Register** citation;
  - Parts of the Code of Federal Regulations (CFR) that have changed (if applicable);
  - Agency file code number; and
  - Title of the regulation.
- Addendum V includes completed NCDs, or reconsiderations of completed NCDs, from the quarter covered by this notice. Completed decisions are identified by the section of the NCDM in which the decision appears, the title, the date the publication was issued, and the effective date of the decision.
- Addendum VI includes listings of the FDA-approved IDE categorizations, using the IDE numbers the FDA assigns. The listings are organized according to the categories to which the device numbers are assigned (that is, Category A or Category B), and identified by the IDE number.
- Addendum VII includes listings of all approval numbers from the Office of Management and Budget (OMB) for collections of information in CMS regulations in title 42; title 45, subchapter C; and title 20 of the CFR.
- Addendum VIII includes listings of Medicare-approved carotid stent facilities. All facilities listed meet CMS standards for performing carotid artery stenting for high risk patients.
- Addendum IX includes a list of the American College of Cardiology's National Cardiovascular Data registry sites. We cover implantable cardioverter defibrillators (ICDs) for certain indications, as long as information about the procedures is reported to a central registry.
- Addendum X includes a list of active CMS guidance documents. As required by section 731 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108–173, enacted on December 8, 2003), we will begin listing the current versions of our guidance documents in each quarterly listings notice.
- Addendum XI includes a list of special one-time notices regarding national coverage provisions. We are publishing a list of issues that require public notification, such as a particular clinical trial or research study that qualifies for Medicare coverage.
- Addendum XII includes a listing of National Oncologic Positron Emission Tomography Registry (NOPR) sites. We cover positron emission tomography (PET) scans for particular oncologic indications when they are performed in a facility that participates in the NOPR.
- Addendum XIII includes a listing of Medicare-approved facitilites that receive coverage for ventricular assist devices used as destination therapy. All facilities were required to meet our standards in order to receive coverage for ventricular assist devices implanted as destination therapy.
- Addendum XIV includes a listing of Medicare-approved facilities that are eligible to receive coverage for lung volume reduction surgery. Until May 17, 2007, facilities that participated in the National Emphysema Treatment Trial are also eligible to receive coverage.
- Addendum XV includes a listing of Medicare-approved facilities that meet minimum standards for facilities modeled in part on professional society statements on competency. All facilities

must meet our standards in order to receive coverage for bariatric surgery procedures.

• Addendum XVI includes a listing of Medicare-approved clinical trials for fluorodeoxyglucose positron emission tomography (FDG–PET) for dementia and neurodegenerative diseases.

III. How To Obtain Listed Material

A. Manuals

Those wishing to subscribe to program manuals should contact either the Government Printing Office (GPO) or the National Technical Information Service (NTIS) at the following addresses: Superintendent of Documents, Government Printing Office, ATTN: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954, Telephone (202) 512–1800, Fax number (202) 512–2250 (for credit card orders); or National Technical Information Service, Department of Commerce, 5825 Port Royal Road, Springfield, VA 22161, Telephone (703) 487–4630.

In addition, individual manual transmittals and Program Memoranda listed in this notice can be purchased from NTIS. Interested parties should identify the transmittal(s) they want. GPO or NTIS can give complete details on how to obtain the publications they sell. Additionally, most manuals are available at the following Internet address: *http://cms.hhs.gov/manuals/default.asp.*

B. Regulations and Notices

Regulations and notices are published in the daily **Federal Register**. Interested individuals may purchase individual copies or subscribe to the **Federal Register** by contacting the GPO at the address given above. When ordering individual copies, it is necessary to cite either the date of publication or the volume number and page number.

The **Federal Register** is also available on 24x microfiche and as an online database through *GPO Access.* The online database is updated by 6 a.m. each day the **Federal Register** is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is *http://www.gpoaccess.gov/fr/index.html*, by using local WAIS client software, or by telnet to swais.gpoaccess.gov, then log in as guest (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then log in as guest (no password required).

C. Rulings

We publish rulings on an infrequent basis. CMS Rulings are decisions of the Administrator that serve as precedent final opinions and orders and statements of policy and interpretation. They provide clarification and interpretation of complex or ambiguous provisions of the law or regulations relating to Medicare, Medicaid, Utilization and Quality Control Peer Review, private health insurance, and related matters. Interested individuals can obtain copies from the nearest CMS Regional Office or review them at the nearest regional depository library. We have, on occasion, published rulings in the **Federal Register**. Rulings, beginning with those released in 1995, are available online, through the CMS Home Page. The Internet address is *http://cms.hhs.gov/rulings.*

D. CMS' Compact Disk-Read Only Memory (CD–ROM)

Our laws, regulations, and manuals are also available on CD–ROM and may be purchased from GPO or NTIS on a subscription or single copy basis. The Superintendent of Documents list ID is HCLRM, and the stock number is 717–139–00000–3. The following material is on the CD–ROM disk:

• Titles XI, XVIII, and XIX of the Act.
• CMS-related regulations.
• CMS manuals and monthly revisions.
• CMS program memoranda.

The titles of the Compilation of the Social Security Laws are current as of January 1, 2005. (Updated titles of the Social Security Laws are available on the Internet at *http://www.ssa.gov/OP_Home/ssact/comp-toc.htm.*) The remaining portions of CD–ROM are updated on a monthly basis.

Because of complaints about the unreadability of the Appendices (Interpretive Guidelines) in the State Operations Manual (SOM), as of March 1995, we deleted these appendices from CD–ROM. We intend to re-visit this issue in the near future and, with the aid of newer technology, we may again be able to include the appendices on CD–ROM.

Any cost report forms incorporated in the manuals are included on the CD–ROM disk as LOTUS files. LOTUS software is needed to view the reports once the files have been copied to a personal computer disk.

IV. How To Review Listed Material

Transmittals or Program Memoranda can be reviewed at a local Federal Depository Library (FDL). Under the FDL program, government publications are sent to approximately 1,400 designated libraries throughout the United States. Some FDLs may have arrangements to transfer material to a local library not designated as an FDL. Contact any library to locate the nearest FDL.

In addition, individuals may contact regional depository libraries that receive and retain at least one copy of most Federal Government publications, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the nearest regional depository library from any library.

For each CMS publication listed in Addendum III, CMS publication and transmittal numbers are shown. To help FDLs locate the materials, use the CMS publication and transmittal numbers. For example, to find the Medicare Benefit Policy publication titled ''Continuous Positive Airway Pressure Therapy for Obstructive Sleep Apnea,'' use CMS-Pub. 100–03, Transmittal No. 96.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance, Program No. 93.774, Medicare—Supplementary Medical Insurance Program, and Program No. 93.714, Medical Assistance Program)

Dated: March 16, 2009.

Jacquelyn Y. White,

Director, Office of Strategic Operations and Regulatory Affairs.

Addendum I

This addendum lists the publication dates of the most recent quarterly listings of program issuances.

December 22, 2006 (71 FR 77202)

March 30, 2007 (72 FR 15282)

June 22, 2007 (72 FR 34508)

September 28, 2007 (72 FR 55282)

December 28, 2007 (72 FR 73990)

April 1, 2008 (73 FR 17422)

June 27, 2008 (73 FR 36596)

September 26, 2008 (73 FR 55902)

December 30, 2008 (73 FR 79982)

Addendum II—Description of Manuals, Memoranda, and CMS Rulings

An extensive descriptive listing of Medicare manuals and memoranda was published on June 9, 1988, at 53 FR 21730 and supplemented on September 22, 1988, at 53 FR 36891 and December 16, 1988, at 53 FR 50577. Also, a complete description of the former CIM (now the NCDM) was published on August 21, 1989, at 54 FR 34555. A brief description of the various Medicaid manuals and memoranda that we maintain was published on October 16, 1992, at 57 FR 47468.

Addendum III
Medicare and Medicaid Manual Instructions
October thru December 2008

Transmittal No.	Manual/Subject/Publication Number

Medicare General Information
(CMS-Pub. 100-01)

54 Claims Sourcing from Shared Systems – Implementation
IDR Claims Sourcing from Shared Systems

55 Update to Medicare Deductible, Coinsurance, and Premium Rates for 2009
Basis for Determining the Part A Coinsurance Amounts
Part B Annual Deductible
Part B Premium

56 Update to Medicare Deductible, Coinsurance, and Premium Rates for 2009
Basis for Determining the Part A Coinsurance Amounts
Part B Annual Deductible
Part B Premium

Medicare Benefit Policy
(CMS-Pub. 100-02)

95 Shipboard Services Billed to the Carrier and Services Not Provided Within the United States
Services Not Provided Within the United States

96 Compendia as Authoritative Sources for Use in the Determination of a "Medically Accepted Indication" of Drugs and Biologicals Used Off-Label in an Anti-Cancer Chemotherapeutic Regimen
Off-Label Use of Anti-Cancer Drugs and Biologicals
Process for Amending the List of Compendia for Determination of Medically Accepted Indications for Off-Label Uses of Drugs and Biologicals in an Anti-Cancer Chemotherapeutic Regimen

97 Adding Certain Entities as Originating Sites for Payment of Telehealth Services—Section 149 of the Medicare Improvements for Patients and Providers Act of 2008
Telehealth Services
Eligibility Criteria
Payment for ESRD-Related Services as a Telehealth Service
Originating Site Facility Fee Payment Methodology

98 Implementation of Changes in End Stage Renal Disease Payment for Calendar Year 2009
ESRD Composite Payment Rates
99 Expansion of Medicare Telehealth Services
List of Medicare Telehealth Services
Follow-Up Inpatient Telehealth Consultations Defined
100 January 2009 Update of the Hospital Outpatient Prospective Payment System
Encounter Defined
Coverage of Outpatient Diagnostic Services
Coverage of Outpatient Therapeutic Services Incident to a Physicians Service Furnished on or After August 1, 2000
Outpatient Observation Services
Partial Hospitalization Services

Medicare National Coverage Determination
(CMS-Pub. 100-03)

96 Continuous Positive Airway Pressure Therapy for Obstructive Sleep Apnea
Continuous Positive Airway Pressure Therapy for Obstructive Sleep Apnea (Effective March 13, 2008)
97 Thermal Intradiscal Procedures
Thermal Intradiscal Procedures (Effective September 29, 2008)
98 Percutaneous Transluminal Angioplasty of the Carotid Artery Concurrent With Stenting
Percutaneous Transluminal Angioplasty (Various Effective Dates Below)

Medicare Claims Processing
(CMS-Pub. 100-04)

1606 Laboratory National Coverage Edit Software for October 2008
1607 Ambulance Inflation Factor for CY 2009
Ambulance Inflation Factor
1608 2009 Annual Update of Healthcare Common Procedure Coding System (HCPCS) Codes for Skilled Nursing Facility
Consolidated Billing for the Common Working File A/B MACs, Medicare Carriers and Fiscal Intermediaries
1609 Shipboard Services Billed to the Carrier and Services Not Provided Within the United States
Services Received by Medicare Beneficiaries Outside the United States
Physician and Ambulance Services Furnished in Connection With Covered

Foreign Inpatient Hospital Services
Shipboard Services Billed to the Carrier
Services Rendered in Nonparticipating Providers

1610 Fiscal Year (FY) 2009 Inpatient Prospective Payment System (PPS), Long Term Care Hospital PPS, and Inpatient Psychiatric Facility PPS Changes

1611 October 2008 Update to the Ambulatory Surgical Center Payment System; Summary of Payment Policy Changes

1612 Revision of Interim Payment Methodology for Religious Nonmedical Health Care Institution Clarifying Existing Policy on Training of Religious Nonmedical Nursing Personal, Claims Not Billed to the RNHCI Specialty Contractor, and Statutory End of Coverage for RNHCI Items and Services Furnished in the Home
Required Data Elements on Claims for RNHCI Services
Claims Not Billed to the RNHCI Specialty Contractor
Billing and Payment of RNHCI Items and Services Furnished in the Home

1613 Reasonable Charge Update for 2009 for Splints, Casts, Dialysis Supplies, Dialysis Equipment, and Certain Intraocular Lenses

1614 Healthcare Provider Taxonomy Codes Update October 2008
X12N 837 Institutional Implementation Guide Edits
X12N 837 Professional Implementation Guide Edits
X12N 837 Institutional Implementation Guide and Direct Data Entry Edit
X12N 837 Professional Implementation Guide Edits

1615 Issued to a specific audience, not posted Internet/ Intranet due to Sensitivity of Instruction

1616 Implementation of an Ambulatory Surgical Center (ASC) HCPCS Payment Indicator File Applicable ASC Messages for Certain Payment Indicators Effective for Services on or after January 1, 2009

1617 Common Working File Editing for Influenza Virus Vaccine and Pneumococcal Vaccine Codes
CWF Edits
CWF Edits on FI/AB MAC Claims
CWF Edits on Carrier/AB MAC Claims
CWF A/B Crossover Edits for FI/AB MAC and Carrier/AB MAC Claims

1618 Revision to the Reporting Requirements of Qualifying Hospital Stays on Inpatient Skilled Nursing Facility and Swing Claims
Billing in Benefits Exhaust and No-Payment Situations
Billing When Qualifying Stay or Transfer Criteria Are Not Met
Beneficiaries Disenrolled from MA Plans

1619 Procedures for Paying Claims Without Passing through the Integrated

Outpatient
Code Editor or Medicare Code
Paying Claims Outside of the Managed Care Entity (MCE)
Requesting to Pay Claims Without MCE Approval
Procedures for Paying Claims Without Passing through the MCE
Paying Claims Outside of the Integrated Outpatient Code Editor (IOCE)
Requesting to Pay Claims Without IOCE Approval
Procedures for Paying Claims Without Passing through the IOCE

1620 Payment of Assistant at Surgery Services in a Method II Critical Access Hospital (CAH)
Medicare Payment for Ambulance Services Furnished by Certain CAHs
Coding Assistant at Surgery Services Rendered in a Method II CAH
Use of Payment Policy Indicators for Determining Procedures Eligible for Payment of Assistants at Surgery
Payment of Assistant at Surgery Services Rendered in a Method II CAH
Assistant at Surgery Medicare Summary Notice and Remittance Advice
Assistant at Surgery Services in a Method II CAH Teaching Hospital
Review of Supporting Documentation for Assistant at Surgery Services in a Method II CAH

1621 Instructions for Downloading the Revised Medicare ZIP Code Files for January 2009

1622 Issued to a specific audience, not posted to Internet/ Intranet due to Confidentiality of Instruction

1623 Influenza Vaccine and the Pneumococcal Vaccine Payment Allowances Based on 95 Percent of the Average Wholesale Price

1624 Reporting National Provider Identifiers on Claims for Out-of-Jurisdiction Purchased Mammography Preventive Screening and Diagnostic Services Billing Requirements - Carrier/B MAC Claims

1625 2009 Annual Update to the Therapy Code List

1626 Announcement of Medicare Rural Health Clinics and Federally Qualified Health Centers Payment Rate Increases

1627 Calendar 2009 Participation Enrollment and Medicare Participating Physicians and Suppliers Directory (MEDPARD) Procedures

1628 Payment for Implanted Prosthetic Devices for Part B Inpatients in Hospitals That Are Paid Under the Medicare Hospital Outpatient Prospective Payment System Inpatient Part B Hospital Services

1629 Healthcare Common Procedure Coding System Annual Update Reminder

1630 Fee Schedule Update for 2009 for Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS)
Durable Medical Equipment Prosthetics, Orthotics and Supplies Fee Schedule
Quarterly Update Schedule for DMEPOS Fee Schedule

Gap-filling DMEPOS Fees
Process for Submitting Revisions to DMEPOS Fee Schedule to CMS
1631 Extension of Therapy Cap Exceptions Process
The Financial Limitation
HCPCS Coding Requirement
1632 Medicare Physician Fee Schedule Database 2009 File Layout
Addendum
1633 Annual Update of HCPCS Codes Used for Home Health Consolidated Billing Enforcement
1634 Remittance Advice Remark Code and Claim Adjustment Reason Code Update
1635 Adding Certain Entities as Originating Sites for Payment of Telehealth Services--Section 149 of the Medicare Improvements for Patients and Providers Act of 2008
1636 File Descriptions for Retrieving the 2009 Pricing and HCPCS Data Files Through CMS' Mainframe Telecommunications Systems
1637 Annual Type of Service Update
1638 Annual Type of Service Update
1639 Issued to a specific audience, not posted to Internet/ Intranet due to Sensitivity of Instruction
1640 Modifications to the National Coordination of Benefits Agreement Process
Consolidation of the Claims Crossover Process
1641 Issued to a specific audience, not posted to Internet/Intranet due to Confidential of Instruction
1642 Instructions for Downloading the Medicare ZIP Code Files for April 2009.
1643 Indian Health Service Provider Payment to Non- Physicians for Teleradiology Interpretations
Payment for Teleradiology Physician Services Purchased by the Indian Health Service Providers and Physicians
The Indian Health Provider Payment to Non- Physicians for Teleradiology Interpretations
Individual Practitioners
Payment to Non-Indian Health Service Physicians by Indian Health Service Providers for Teleradiology Interpretations
1644 2008 Jurisdiction List for Durable Medical Equipment Prosthetics, Orthotics, and Supply Healthcare Common Procedure Coding System Codes
Use and Acceptance of Healthcare Common Procedure Coding Codes and Modifiers
1645 Changes to the Laboratory National Coverage Determination Edit Software for January 2009

1646 Thermal Intradiscal Procedures
Billing Requirements for Thermal Intradiscal Procedures Claims
General
Contractor A/B MAC
Medicare Summary Notice Claim Adjustment Reason Code and
Remittance Advise Remark Code
Advanced Beneficiary Notice
1647 Payments to Home Health Agencies That Do Not Submit Required Quality Data
Split Percentage Payment of Episodes and Development of Episode Rates
Basis of Medicare Prospective Payment Systems and Case-Mix
Payments to Home Health Agencies That Do Not Submit Required Quality Data
1648 Implementation of Changes in End Stage Renal Disease Payment for Calendar Year 2009
Determining Individual Facility Composite Rate
1649 Procedures for Paying Claims Without Passing Through the Integrated
Outpatient Code Editor or Medicare Code Editor
Paying Claims Outside of the MCE
Requesting to Pay Claims Without MCE Approval
Procedures for Paying Claims Without Passing Through the MCE
Paying Claims Outside of the IOCE
Requesting to Pay Claims Without IOCE Approval
Procedures for Paying Claims Without Passing Through the IOCE
1650 January 2009 Quarterly Average Sales Price Medicare Part B Drug Pricing
Files and Revisions to Prior Quarterly Pricing Files
1651 Calendar Year 2009 Annual Update for Clinical Laboratory Fee
Schedule and Laboratory Services Subject to Reasonable Charge Payment
1652 New Waived Tests
Certificate of Waiver
1653 Annual Clotting Factor Furnishing Fee Update
Clotting Factor Furnishing Fee
1654 Expansion of Medicare Telehealth Services
List of Medicare Telehealth Service
Follow-Up Inpatient Telehealth Consultations Defined
1655 End-Stage Renal Dialysis (ESRD) Medicare Claims Processing Manual
Clarification
Lab Services
Method of Payment for Clinical Laboratory Tests ý Place of Service
Variation
Claims Processing for Separately Billable Tests for ESRD Beneficiaries
Reserved
Skilled Nursing Facility Consolidated Billing Editing and Separately

Billed ESRD Laboratory Test Furnished to Patients of Renal Dialysis Facilities
Specimen Drawing for Dialysis Patients
1656 Claim Status Category Code and Claim Status Code Update
1657 January 2009 Update of the Hospital Outpatient Prospective Payment System
Composite APCs
Packaging
Payment Adjustment for Certain Rural Hospitals
Payment Adjustment for Failure to Meet the Hospital Outpatient Quality
Reporting Requirements
Hospitals to which the Payment Reduction Applies
Services to which the Payment Reduction Applies
Contractor Responsibilities
Application of the Payment Reduction Factor in Calculation of the Reduced
Payment and Reduced Copayment
Outliers
Outlier Adjustments
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Identifying Hospitals and Community Mental Health Center (CMHCs) Subject to Outlier
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Reconciling Outlier Payments for Hospitals and CMHCs
Time Value of Money
Procedures for Medicare Contractors to Perform and Record Outlier
Reconciliation Adjustments
Requirement to Calculate CCRs for Hospitals Paid under OPPS and for CMHCs
Circumstances in Which CCRs Are Used
Selection of the CCR To Be Used
Hospital or CMHC Request for Use of a Different CCR
CMS Specification of Alternative CCR
Hospital or CMHC Request for Use of a Different CCR
Notification to Hospitals Paid Under the OPPS of a Change in the CCR of CCRs in
Mergers, Acquisitions, Other Ownership Changes, or Errors
Related to CCRs
New Providers and Providers with Cost Report Periods Less Than a Full Year
Substitution of Statewide CCRs for Extreme OPPS Hospital Specific CCRs
Methodology for Calculation of Hospital Overall CCR for Hospitals That
Do Not Have Nursing and Paramedical Education Programs
Methodology for Calculation of Hospital Overall CCR for Hospitals That Have Nursing
and Paramedical Education Programs

Methodology for Calculation of CCR for CMHCs
Location of Statewide CCRs, Tolerances for Use of Statewide CCRs in Lieu of Calculated CCRs and Cost Centers to be Used in the Calculation of CCRs
Reporting of CCRs for Hospitals Paid Under OPPS and for CMHCs
General
Use of HCPCS Modifier FB
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Use of HCPCS Modifier FC
Outpatient Provider Specific File
Billing for Devices under the OPPS
Billing for Devices Furnished Without Cost to an OPPS Hospital or Beneficiary or for Which the Hospital Receives a Full or Partial Credit and Payment for OPPS Services Required to Furnish the Devic
Reporting and Charging Requirements When a Device is Furnished Without Cost to the Hospital
Reporting and Charging Requirements When the Hospital Receives Full Credit for the Replaced Device against the Cost of a More Expensive Replacement Device
Reporting Requirements When the Hospital Receives Partial Credit for the Replacement Device
Medicare Payment Adjustment
Transitional Corridor Payments
Transitional Outpatient Payments (TOPs) for CY 2000 and CY 2001
Transitional Outpatient Payments (TOPs) for CY 2002
Transitional Outpatient Payments (TOPs) for CY 2003
Transitional Outpatient Payments (TOPs) for CY 2004 and CY 2005
Transitional Outpatient Payments (TOPs) for CY 2006-CY 2008
Transitional Outpatient Payments (TOPs) for CY 2009
TOPs Overpayments
Critical Care Services
Unlisted Service or Procedure
Cardiac Echocardiography With Contrast
Billing for Nuclear Medicine Procedures
Special Partial Hospitalization Billing Requirements for Hospitals, Community Mental Health Centers, and Critical Access Hospitals

Bill Review for Partial Hospitalization Services Provided in Community Mental Health Centers
Reporting Service Units for Partial Hospitalization
Line Item Date of Service Reporting for Partial Hospitalization
Billing and Payment for Observation Services Beginning January 1, 2008
Drugs, Biologicals, and Radiopharmaceuticals
Practitioner Billing for No Cost Items
Institutional Billing for No Cost Items
Billing No Cost Items Due to Recall, Replacement, or Free Sample
General
Notifying Contractors of an IDE Device Trial
Billing Requirements for Providers Billing Routine Costs of Clinical Trials Involving a Category A IDE
Billing Requirements for Providers Billing Routine Costs of Clinical Trials Involving a Category B IDE
Requirements for Billing Routine Costs of Clinical Trials
Billing Requirements General
Requirements for Billing Routine Costs of Clinical Trials
Requirements for Billing Routine Costs of Clinical Trials
Requirements for Billing Routine Costs of Clinical Trials

1658 Quarterly Update to Correct Coding Initiative (CCI) Edits, Version 15.0, Effective January 1, 2009

1659 Issued to a Specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction

1660 Calendar Year (CY) 2009 Annual Update for Clinical Laboratory Fee Schedule and Laboratory Services Subject to Reasonable Charge Payment

Medicare Secondary Payer
(CMS-Pub. 100-05)

61 Expanding the Mandatory Insurer Reporting Coordination of Benefits Contractor Numbers for the Common Working File
Definition of MSP/CWF Terms
MSP Delete Transaction

62 Instructions For Utilizing 837 Professional Claim Adjustment Segments for

Medicare Secondary Payer Part B Claims
Medicare Secondary Payment Part B Claims Determination for Services Received on 837 Professional Electronic Claims

63 Instructions on utilizing 837 Institutional CAS segments for Medicare SecondaryPayer Part A Claims
Medicare Secondary Payment Part A Claims Determination for Services Received in the 837 Institutional Electronic or Hardcopy Claims Format

Medicare Financial Management
(CMS-Pub. 100-06)

142 Notice of New Interest Rate for Medicare Overpayments and Underpayments – 1st Notification for FY 2009.

143 Instructions for Monthly Processing of Non-Medicare Secondary Payer (Non-MSP) Debts Returned to Agency from the Department of Treasury
Update to DCS after Transmission
Financial Reporting for Debts Returned to Agency
Debts RTA for Bankruptcy
Debts RTA Pending Final Disposition
Debts RTA Because Dispute Timer Expired
Debts RTA Paid in Full or Satisfied Payment Agreement or Satisfied Compromise
Debts Returned to Agency by Treasury

144 Revisions to the Monthly Statistical Report on Intermediary and Carrier Part A and Part B Appeals Activity Form (CMS -2592) to Capture Data on Recovery Audit Contractor
Monthly Statistical Report on Intermediary and Carrier Part A and Part B Appeals Activity Form (CMS-2592)
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Redeterminations
Qualified Independent Contractor Reconsiderations
Administrative Law Judge Results
Clerical Error Reopenings
Validation Reports

Medicare State Operations Manual
(CMS-Pub. 100-07)

37 Revise Appendix A "Interpretive Guidelines for Hospitals"

38 Revisions to Exhibits 37, 196, and 287.
39 Revisions to Exhibits 37, 196, and 287.
Staff Training
Education, Training and Experience
Implementation
Quality Indicator Survey Training Process
Orientation and Training of Newly Employed Surveyors in a State Implementing the QIS
Training Process: Registered QIS Surveyor
Training Process: CMS-Certified QIS Trainer
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CMS Regional Office Staff Participation in QIS Training

Medicare Program Integrity
(CMS-Pub. 100-08)

270 Reporting National Provider Identifiers for Secondary Providers
NPIs for Secondary Providers
271 Instructions for the Implementation of the Internet-Based Provider Enrollment, Chain and Ownership System
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272 Clarification of Provider Enrollment Procedures Involving Certified Suppliers and Providers
Section 4 of the CMS-855B
Processing CHOW Applications
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State Surveys and the CMS-855A
ASC/PXRS Tie-In Notices
State Surveys and the CMS-855B
Special Instructions for Certified Providers, ASCs, and Portable X-ray Suppliers
Non-Participating Emergency Hospitals, Veterans Administration Hospitals, and Department of Defense Hospitals
Carrier Processing of Hospital Applications
CMS or Contractor Issued Deactivations
273 Issued to a specific audience, not posted to Internet/Intranet due to Confidential of Instruction
274 Issued to a specific audience, not posted to Internet/Intranet due to Confidential of Instruction
275 Administrative Appeals for Provider Enrollment

Administrative Appeals
276 Deceased Individuals and the Provider Enrollment Process
Date of Death Verification, Documentation, and Processing Activities
277 Additional Provider Enrollment Verification and Program Integrity Activities
Returning the Application
Licenses and Certifications
Adverse Legal Actions/Convictions
Section 4 of the CMS-855A
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Supervising Physicians
Jurisdictional Issues
EFT Payments and CHOWs
Pre-Approval Informational Changes
Processing Tie-In Notices
EFT Payments and CHOWs
Processing Tie-In Notices Processing Tie-In Notices
Special Program Integrity Procedures
Special Procedures for Physicians and Non-Physician Practitioners
Supplementary Revalidation Activities
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278 Zone Program Integrity Contractor Updates
Overpayment Procedures
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Estimation and Recoupment of Projected Overpayments by Contractors
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Consent Settlement Offer
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Fraud or Willful Misrepresentation Exists - Fraud Suspensions
Overpayment Exists But the Amount is Not Determined - General Suspensions
Payments to be Made May Not be Correct - General Suspensions
Provider Fails to Furnish Records and Other Requested Information – General Suspensions
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Shortening the Notice Period for Cause
Mailing the Notice to the Provider
Opportunity for Rebuttal

Claims Review
Case Development - Benefit Integrity
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Removing the Suspension
Disposition of the Suspension
Contractor Suspects Additional Improper Claims
DME MACs, DME PSCs, and ZPICs
Reserved for Future Use
General Purpose
Determining When Statistical Sampling May Be Used
Consultation With a Statistical Expert
Use of Other Sampling Methodologies
Probability Sampling
Random Numbers Selection
Determining Sample Size
Documentation of Sampling Methodology
Documentation of Universe and Frame
Worksheets
Informational Copies to Primary GTL, Associate GTL, SME or CMS RO
The Point Estimate
Actions to be Performed Following Selection of Provider or Supplier and Sample
Notification of Provider or Supplier of the Review and Selection of the Review Site
Written Notification of Review
Determining Review Site
Recovery From Provider or Supplier
279 Zone Program Integrity Contractor Updates

Data Analysis
Sources of Data
Sources of Data for PSCs and ZPICs
280 Incorporation of Recent Regulatory Revisions Pertinent to Suppliers of Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS
Definitions
Medicare Enrollment Applications
Pre-Screening Process
Contractor Issued Revocations
CMS Satellite Office or Regional Office Identified Revocations
Development and Use of Fraud Level Indicators

Fraud Prevention and Detection
Alert Codes
Accreditation
281 Signature and Date Stamps for DME Supplies-CMNs and DIFs
Completing a CMN or DIF

Medicare Contractor Beneficiary and Provider Communications (CMS-Pub. 100-09)

00 None

Medicare End Stage Renal Disease Network Organizations

00 None

(CMS Pub 100-14) Medicare Managed Care (CMS-Pub. 100-16)

90 Originating Site Facility Fee Payment Methodology
Introducation
Application of CMS Employer Group Waiver Authority
Employer/Union Group Health Plan Sponsorship of Employer/Union-only Group Waiver Plans
Employer/Union Group Health Plan Sponsorship of Individual MA Plans
Actuarial Equivalence of Part C Benefits
Actuarial Swapping of Part C Benefits Not Covered by Original Medicare
Identification of Employer/Union Sponsored Group Health Plan Enrollees
Private Reinsurance Arrangements with Employer/Union Group Health Plan Sponsors
Employer/Union-Only Group Waiver Plans and COBRA
EGWP Application Procedures
Approved Employer/Union Sponsored Group Health Plan Waivers
Enrollment in Employer/Union Sponsored MA Plans
Enrollment Eligibility
Minimum Enrollment Requirements
Enrollment of End Stage Renal Disease Members

Enrollment of End Stage Renal Disease Members
Enrollment of Part B-Only Members
Annual Open Enrollment Periods
Group Enrollment/Disenrollment
Special Election Periods
Transaction Reply Code 127 Procedures When Transitioning
Employer/Union Group Health Plans from the Retiree Drug Subsidy to
Employer/Union Sponsored Individual MA Plans of EGWPs
Beneficiary Enrollment Notification Requirements
Permitting Employer/Union Sponsors to Enroll Beneficiaries in Both an "800
Series" Local MA-Only Coordinated Care Plan and an "800 Series" Standalone
PDP
Medical Savings Account (MSA) Employer/Union Sponsored Group Health
Plans
Service Areas
800 Series" EGWP Service Areas
Service Area Waiver for Local MA-Only and Local MA-PD Plans to Extend
Coverage Up to State
Elimination of the "Nexus Test" for Non-Network PFFS and All MSA Plans
(Regular and Demonstration)
Service Area Extension for Certain MA Local Coordinated Care Plans
Modification of Service Area Extension for Certain MA Local Coordinated Care
Plans
Direct Contract EGWP Service Areas
Marketing and Disclosure
Prior Review and Approval of Marketing Materials and Election Forms
Timing and Content of Employer/Union Sponsored Group Health Plan
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Requirements
Customizing Medicare Disclosure Materials and Election Forms
Timing for Issuance of Employer/Union Sponsored Group Plan Medicare
Disclosure Materials
Plans with Employer/Union Sponsors Eligible for Waiver of Medicare Disclosure
Requirements ("Alternative Disclosure Waiver")
Identification Card Requirements
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Special Marketing/Disclosure Requirements for Employer Group Sponsored
Private Fee-for-Service Plans
Agent and Broker Requirements

Mid-Year Benefit Customization/Enhancements
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Providing Information to CMS About the MA Programs
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Part C EGWP Cost Sharing and Coverage Requirements
Part D EGWP Cost Sharing
CMS EGWP Part C Payment
CMS EGWP Part D Payment
Direct Subsidy
Reinsurance Subsidies
Low-Income Subsidies
Risk Sharing Arrangements ("Risk Corridors")
Low-Income Subsidies
Premium Subsidy
Cost-Sharing Subsidy
Non-Calendar Year EGWPs
Part D Formularies
Formularies for Non-Calendar Year Plans
Beneficiary Customer Service Call Center Requirements
Waivers Only Applicable to Direct Contract EGWPs
Governmental Entities
State Licensure
Financial Solvency
Bonding and Insurance
Management and Operations
Reporting Requirements
Employer/Union Sponsored PFFS Plans
Requirement for All Employer/Union Sponsored PFFS Plans to Use Contracts with Providers Beginning 2011

Medicare Business Partners Systems Security
(CMS-Pub. 100-17)

00 None

Demonstrations
(CMS-Pub. 100-19)

59 Method of Payment for Extended Stay Service Under the Frontier Extended Stay Clinic Demonstration Authorized by Section 434 of the Medicare Modernization Act. This Change Request is a full replacement of CR 5454

One Time Notification
(CMS-Pub. 100-20)

380 Reporting Non-Tax Withholding Due to Federal Payment Levy Program
381 Competitive Acquisition Program for Part B Drugs and Biologicals Vendor Identification Number, Iron Dextran Payment Update, and Physician Election
382 Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
383 J5 Production Region Merge of the Kansas, Missouri, Nebraska, and Iowa Part AWorkloads.
384 Limitation of Recoupment - VMS Recoupment and Claims Adjustment Process
385 Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
386 Influenza Pandemic Emergency Preparedness -- Medicare Fee-For-Service Payment Policies and Billing Instructions
387 Medicare Payment for Air Ambulance Services Under Section 146(b)(1) of the Medicare Improvements for Patients and Providers Act of 2008
388 Analysis of Systems Changes Needed to Change Type of Bill for Federally Qualified Health Centers from 73x to 77x
389 New 2008 Medicare Physician Fee Schedule Payment Rates Effective for Dates of Service July 1, 2008, Through December 31, 2008
390 Influenza Pandemic Emergency Preparedness - Instructions Concerning Financial Management Policies
391 Archiving and Retrieving of the Integrated Outpatient Code Editor and the Medicare Code Editor for Processing Claims
392 Revision to the Common Working File Requirements for Updating Spells of Illness for Skilled Nursing Facility and Swing Bed Claims
393 UPDATE TO CR 5020: Method of Cost Settlement for Inpatient Services for Rural Hospitals Participating Under Demonstration Authorized by Section 410A of the Medicare Modernization Act

394 New Hemophilia Clotting Factor and HCPCS Code and Terminated

Hemophilia Clotting Factor HCPCS Code

395 MCS Changes Needed to Address Duplicate PINs in Separate CICS Regions Prior to the Merge of those Regions

396 Influenza Pandemic Emergency Preparedness - Instructions Concerning Financial Management Policies

397 Claim Adjustments to Correct Home Health Prospective Payment System Payment Errors

398 Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction

399 Apply IRS Form 1099-MISC Updates to VMS System

400 Revised 4010A1 837 Professional (837P) Flat File

401 2008 Physician Quality Reporting Initiative Claims-Based Reporting of Measures Groups

402 Influenza Pandemic Emergency--Policies Concerning the Medicare Prescription Drug Program (Part D) and Medicare Advantage (Part C)

403 Influenza Pandemic Emergency Preparedness – Instructions Concerning Financial Management

404 Influenza Pandemic Emergency--Policies Concerning the Medicare Prescription Drug Program (Part D) and Medicare Advantage (Part C)

405 FISS Reason Code Language Expansion

406 Analysis Only for New FISS, CWF and NCH System Requirements for All 837 I Claims Related to Rendering Physicians/Practitioners

407 Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction

408 NEW NUMBERS FOR ALL MAC JURISDICTIONS. THIS CHANGE REQUEST RESCINDS AND FULLY REPLACES CR 5651

409 Issued to a specific audience, not posted to Internet/Intranet/ due to Sensitivity of Instruction

410 Process for Recovering Medicare Payments for Home Health Prospective Payment System Claims Failing to Report Prior Hospitalizations

411 Influenza Pandemic Emergency Preparedness- Additional Instructions Concerning Financial Management and Program Integrity

412 Limitation of Recoupment - VMS Recoupment and Claims Adjustment Process

413 Excluding Low Utilization Payment Adjustment Claims from Home Health Prospective Payment Episode Sequence Edits
414 Improved Access to Ambulance Services Payment Rates for Effective Dates of Service July 1, 2008, through December 31, 2009
415 Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
416 Issued to a specific audience, not posted to Internet/Intranet due to Confidential of Instruction
417 Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality
418 Moratorium on Classification of Long-Term Care Hospitals or Satellites/Increase in Certified LTCH Beds
419 Summary of Policies in the 2009 Medicare Physician Fee Schedule and the Telehealth Originating Site Facility Fee Payment Amount
420 Implementation - Processing All Diagnosis Codes Reported on Claims Submitted to Durable Medical Equipment Medicare Administrative Contractors (DME MACs)
421 Changes in Payment for Oxgen Equipment as a Result of the Medicare Improvements for Patients and Providers Act of 2008 and Additional Instructions Regarding Payment for DMEPOS
422 Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
423 New Contractor Numbers for the J9 Medicare Administrative Contractor Part A and Part B Workloads for the State of Florida and Territories of Puerto Rico and the Virgin Islands
424 HIGLAS Parts A Changes for Limitations on Recoupment
425 Health Insurance Portability and Accountability Act Inbound 837 Institutional (837i) and Inbound 837 Professional (837p) Flat Files
426 Adjustment for Medicare Mental Health Services

Addendum IV—Regulation Documents Published in the Federal Register October Through December 2008

Publication Date	FR Vol. 73 Page Number	42 CFR Parts Affected	File Code	Title of Regulation
October 1, 2008	56998	413	CMS-1534-CN	Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities; Correction.
October 2, 2008	57363	----------	CMS-1419-N	Medicare Program; Request for Nominations for the Program Advisory and Oversight Committee for the Competitive Acquisition of Durable Medical Equipment and Other Items.
October 3, 2008	57854	441	CMS-2229-F	Medicaid Program;Self-Directed Personal Assistance Services Program State Plan Option (Cash and Counseling).
October 3, 2008	57888	----------	CMS-1390-N	Medicare Program; Hospital Inpatient Prospective Payment Systems and Fiscal Year 2009 Rates: Final Fiscal Year 2009 Wage Indices and Payment Rates Including Implementation of Section 124 of the Medicare Improvement for Patients and Providers Act of 2008.

October 3, 2008	57541	411, 412, 413, 422, and 489	CMS-1390-CN CMS-1531-CN CMS-1385-CN2	Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2009 Rates; Payment for Graduate Medical Education in Certain Emergency Situations; Changes to Disclosure of Physician Ownership in Hospitals and Physician Self-Referral Rules; Updates to the Long-Term Care Prospective Payment System; Updates to Certain IPPS-Excluded Hospitals; and Collection of Information Regarding Financial Relationships Between Hospitals; Correction.
October 7, 2008	58491	447	CMS-2238-F	Medicaid Program; Multiple Source Drug Definition.
October 10, 2008	60208	**45** CFR 144, 146, and 148	CMS-4137-NC	Request for Information Regarding Sections 101 Through 104 of the Genetic Information Nondiscrimination Act of 2008.
October 20, 2008	62410	**45** CFR 144, 146, and 148	CMS-4116-F	Final Rules for Group Health Plans and Health Insurance Issuers Under the Newborns' and Mothers' Health Protection Act.

October 24, 2008	63480	----------	CMS-2896-FN	Medicare and Medicaid Programs; Conditional Approval of the Joint Commission's Continued Deeming Authority for Critical Access Hospitals.
October 24, 2008	63483	----------	CMS-3205-PN	Medicare Progran; Application by the American Association of Diabetes Educators (AADE) for Recognition as a National Accreditation Organization for Accrediting Entities To Furnish Outpatient Diabetes Self-Management Training.
October 24, 2008	63485	----------	CMS-1421-N	Medicare Program; Plan To Transition to a Medicare Value-Based Purchasing Program for Physician and Other Professional Services: Listening Session, December 9, 2008.
October 24, 2008	63486	----------	CMS-1559-N	Medicare Program; Meeting of the Practicing Physicians Advisory Council, December 8, 2008.
October 30, 2008	64618	----------	CMS-1422-N	Medicare Program; Listening Session on Hospital-Aquired Conditions in Inpatient Settings and Hospital Outpatient Healthcare-Associated Conditions in Outpatient Settings, December 18, 2008.

November 3, 2008	65351	----------	CMS-1555-N	Medicare Program; Home Health Prospective Payment System Rate Update for Calendar Year 2009.
November 7, 2008	66187	440	CMS-2213-F	Medicaid Program; Clarification of Outpatient Hospital Facility (Including Outpatient Hospital Clinic) Services Definition.
November 14, 2008	67406	422 and 423	CMS-4138-IFC2	Medicare Program; Revisions to the Medicare Advantage and Prescription Drug Benefit Programs: Clarification of Compensation Plans.
November 14, 2008	67520	----------	CMS-2897-FN	Medicare and Medicaid Programs; Approval of the Accreditation Association for Ambulatory Health Care for Continued Deeming Authority for Ambulatory Surgical Centers.
November 14, 2008	67522	----------	CMS-2898-FN	Medicare and Medicaid Programs; Approval of the Joint Commission for Continued Deeming Authority for Ambulatory Surgical Centers.

November 18, 2008	68502	410, 416, and 419	CMS-1404-FC CMS-3887-F CMS-3835-F	Medicare Program; Changes to the Hospital Outpatient Prospective Payment System and CY 2009 Payment Rates; Changes to the Ambulatory Surgical Center Payment System and CY 2009 Payment Rates; Hospital Conditions of Participation: Requirements for Approval and Re-Approval of Transplant Centers to Perform Organ Transplants—Clarification of Provider and Supplier Termination Policy Medicare and Medicaid Programs: Changes to the Ambulatory Surgical Center Conditions for Coverage.
November 19, 2008	69726	405, 409, 410, 411, 413, 414, 415, 423, 424, 485, 486, and 489	CMS-4103-FC CMS-1270-F2	Medicare Program; Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for CY 2009; E-Prescribing Exemption for Computer-Generated Facsimile Transmissions; and Payment for Certain Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS).
November 21, 2008	70598	423	CMS-4138-IFC3	Medicare Program; Revisions to the Medicare Advantage and Prescription Drug Benefit Programs; Correcting Amendment.

November 24, 2008	70886	433	CMS-2290-IFC	Medicaid Program; State Allotments for Payment of Medicare Part B Premiums for Qualifying Individuals: Federal Fiscal Year 2008 and Federal Fiscal Year 2009.
November 25, 2008	71828	447 and 457	CMS-2244-F	Medicaid Program; Premiums and Cost Sharing.
November 28, 2008	72487	----------	CMS-2294-PN	Medicare and Medicaid Programs; Application by the Joint Commission for Continued Deeming Authority for Hospices.
November 28, 2008	72489	----------	CMS-1397-N	Medicare Program; Rechartering of the Advisory Panel on Ambulatory Payment Classification Groups.
November 28. 2008	72490	----------	CMS-1537-N	Medicare Program; Town Hall Meeting on the Fiscal Year 2010 Applications for New Medical Services and Technologies Add-on Payments Under the Hospital Inpatient Prospective Payment Systems, February 17, 2009.
November 28, 2008	72492	----------	CMS-7012-N	Medicare Program; Announcement of Meeting of the Advisory Panel on Medicare Education, January 13, 2009.

December 3, 2008	73656	----------	CMS-1390-N2	Medicare Program; Hospital Inpatient Prospective Payment Systems and Fiscal Year 2009 Rates: Fiscal Year 2009 Wage Index Changes Following Implementation of Section 124 of the Medicare Improvement for Patients and Providers Act of 2008.
December 3, 2008	73694	440	CMS-2232-F	Medicaid Program; State Flexibility for Medicaid Benefit Packages.
December 19, 2008	73656	----------	CMS-1390-N2	Medicare Program; Hospital Inpatient Prospective Payment Systems and Fiscal Year 2009 Rates
December 19, 2008	77519	440	CMS-2234-F	Medicaid Program; State Option To Establish Non-Emergency Medical Transportation Program.
December 19, 2008	77702	----------	CMS-2295-N	Deeming Notice for American Society for Histocompatibility and Immunogenetics (ASHI) as an Accrediting Organization Under the Clinical Laboratory Improvement Amendments of 1988.
December 19, 2008	77704	----------	CMS-2274-N	Medicaid Program; Fiscal Year Disproportionate Share Hospital Allotments and Disproportionate Share Hospital Institutions for Mental Disease Limits.

December 19, 2008	77714	----------	CMS-1409-N	Medicare Program; First Semi-Annual Meeting of the Advisory Panel on Ambulatory Payment Classification Groups—February 18-20, 2009.
December 19, 2008	77717	----------	CMS-3209-N	Medicare Program; Meeting of the Medicare Evidenc Development & Coverage Advisory Committee—February 25, 2009.
December 19, 2008	77904	447 and 455	CMS-2198-F	Medicaid Program; Disproportionate Share Hospital Payments.
December 19, 2008	78368	----------	CMS-2283-N	Medicare, Medicaid, and CLIA Programs; Clinical Laboratory Improvement Amendments of 1988 Exemption of Permit-Holding Laboratories in the State of New York.
December 22, 2008	78366	----------	CMS-1555-CN	Medicare Program; Home Health Prospective Payment System Rate Update for Calendar Year 2009; Corrections.
December 22, 2008	78367	----------	CMS-1411-N	Medicare Program; Request for Nominations to the Advisory Panel on Ambulatory Payment Classification Groups.

December 30, 2008	79664	411, 412, 413, 422, and 489	CMS-1390-CN2 CMS-1531-CN CMS-1385-CN2	Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2009 Rates; Payment for Graduate Medical Education in Certain Emergency Situations; Changes to Disclosure of Physician Ownership in Hospitals and Physician Self-Referral Rules; Updates to the Long-Term Care Prospective Payment System; Updates to Certain IPPS-Excluded Hospitals; and Collection of Information Regarding Financial Relationships Between Hospitals; Correction.
December 30, 2008	79982	----------	CMS-9049-N	Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—July Through September 2008.
December 31, 2008	80302	405, 409, 410, 411, 413, 414, 415, 423, 424, 485, 486, and 489	CMS-1403-CN2	Medicare Program; Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for CY 2009; E-Prescribing Exemption for Computer Generated Facsimile Transmissions; Corrections.

Addendum V—National Coverage Determinations [October Through December 2008]

A national coverage determination (NCD) is a determination by the Secretary with respect to whether or not a particular item or service is covered nationally under Title XVIII of the Social Security Act, but does not include a determination of what code, if any, is assigned to a particular item or service covered under this title, or determination with respect to the amount of payment made for a particular item or service so covered. We include below all of the NCDs that were issued during the quarter covered by this notice. The entries below include information concerning completed decisions as well as sections on program and decision memoranda, which also announce pending decisions or, in some cases, explain why it was not appropriate to issue an NCD. We identify completed decisions by the section of the NCDM in which the decision appears, the title, the date the publication was issued, and the effective date of the decision. Information on completed decisions as well as pending decisions has also been posted on the CMS Web site at http://cms.hhs.gov/coverage.

Title	NCDM Section	TN #	Issue Date	Effective Date
Laboratory National Coverage Determination (NCD) Edit Software for October 2008	190.1-190.34	R1606CP	10/02/2008	10/01/2008
Continuous Positive Airway Pressure (CPAP) Therapy for Obstructive Sleep Apnea (OSA)	240.4	R96NCD	10/15/2008	03/13/2008

Thermal Intradiscal Procedures (TIPs)	150.11	R97NCD	12/09/2008	09/29/2008
Changes to the Laboratory National Coverage Determination (NCD) Edit Software for January 2009	190.1-190.34	R1645CP	12/09/2008	01/01/2009
Percutaneous Transluminal Angioplasty of the Carotid Artery Concurrent With Stenting	20.7	R98NCD	12/24/2008	10/14/2008

Addendum VI
FDA-Approved Category B IDEs
[October Through December 2008]

Under the Food, Drug, and Cosmetic Act (21 U.S.C. 360c) devices fall into one of three classes. To assist CMS under this categorization process, the FDA assigns one of two categories to each FDA-approved IDE. Category A refers to experimental IDEs, and Category B refers to non-experimental IDEs. To obtain more information about the classes or categories, please refer to the **Federal Register** notice published on April 21, 1997 (62 FR 19328).

The following list includes all Category B IDEs approved by FDA during the fourth quarter, October through December 2008.

IDE	Category
G080008	B
G080052	B
G080055	B
G080076	B
G080118	B
G080124	B
G080134	B
G080141	B
G080145	B
G080151	B
G080154	B
G080156	B
G080157	B
G080161	B
G080162	B
G080163	B
G080164	B
G080166	B
G080170	B
G080171	B

G080172	B
G080175	B
G080176	B
G080185	B
G080186	B
G080188	B
G080190	B
G080192	B
G080193	B
G080196	B
G080197	B
G080198	B
G080200	B
G080202	B
G080206	B
G080207	B
G080210	B
G080212	B
G080213	B
G080216	B
G080219	B
G080220	B

Addendum VII
Approval Numbers for Collections of Information

Below we list all approval numbers for collections of information in the referenced sections of CMS regulations in Title 42; Title 45, Subchapter C; and Title 20 of the Code of Federal Regulations, which have been approved by the Office of Management and Budget:

OMB Control Numbers	Approved CFR Sections in Title 42, Title 45, and Title 20 (Note: Sections in Title 45 are preceded by "45 CFR," and sections in Title 20 are preceded by "20 CFR")

OMB NUMBER	Approved CFR Sections
0938-0008	Part 424, Subpart C
0938-0022	413.20, 413.24, 413.106
0938-0023	424.103
0938-0025	406.28, 407.27
0938-0027	486.100 - 486.110
0938-0033	405.807
0938-0035	407.40
0938-0037	413.20, 413.24
0938-0041	408.6, 408.202
0938-0042	410.1, 410.40, 424.124, 424.601, 414.605, 414.610, 414.615, 414.620, 414.625, 424.32
0938-0045	405.711
0938-0046	405.2133
0938-0050	413.20, 413.24
0938-0062	431.151, 435.151, 435.1009, 440.220, 440.250, 442.1, 442.10 - 442.16, 442.30, 442.40, 442.42, 442.100 - 442.119, 483.400 - 483.480, 488.332, 488.400, 498.3 - 498.5
0938-0065	485.701 - 485.729
0938-0074	491.1 - 491.11
0938-0080	406.7, 406.13
0938-0086	420.200 - 420.206, 455.100 - 455.106
0938-0101	430.30
0938-0102	413.20, 413.24

0938-0107	413.20, 413.24
0938-0146	431.800 - 431.865
0938-0147	431.800 - 431.865
0938-0151	493.1 - 493.2001
0938-0155	405.2470
0938-0193	430.10 - 430.20, 440.167
0938-0202	413.17, 413.20
0938-0214	411.25, 489.2, 489.20
0938-0236	413.20, 413.24
0938-0242	488.26 and 442.30
0938-0245	407.10, 407.11
0938-0246	431.800-431.865
0938-0251	406.7
0938-0266	416.1-416.150
0938-0267	485.56, 485.58, 485.60, 485.64, 485.66
0938-0269	412.116, 412.632, 413.64, 413.350, 484.245
0938-0270	405.376
0938-0272	440.180, 441.300 - 441.310
0938-0273	485.701 - 485.729
0938-0279	424.5
0938-0287	447.31
0938-0296	413.170, 413.184
0938-0301	413.20, 413.24, 415.60
0938-0302	418.22, 418.24, 418.28, 418.56, 418.58, 418.70, 418.74, 418.83, 418.96, 418.100
0938-0313	489.11, 489.20
0938-0328	482.12, 482.13, 482.21, 482.22, 482.27, 482.30, 482.41, 482.43, 482.45, 482.53, 482.56, 482.57, 482.60, 482.61, 482.62, 482.66, 485.618, 485.631
0938-0334	491.9, 491.10
0938-0338	486.104, 486.106, 486.110
0938-0354	441.50
0938-0355	442.30, 488.26
0938-0358	488.26
0938-0359	412.40 - 412.52
0938-0360	488.60
0938-0365	484.10, 484.12, 484.14, 484.16, 484.18, , 484.36, 484.48, 484.52
0938-0372	414.330
0938-0378	482.60 - 482.62
0938-0379	442.30, 488.26
0938-0386	405.2100 - 405.2171

0938-0391	488.18, 488.26, 488.28
0938-0426	480.104, 480.105, 480.116, 480.134
0938-0429	447.53
0938-0443	478.18, 478.34, 478.36, 478.42
0938-0444	1004.40, 1004.50, 1004.60, 1004.70
0938-0445	412.44, 412.46, 431.630, 476.71, 476.74, 476.78
0938-0447	405.2133
0938-0448	405.2133, **45 CFR** 5, 5b; **20 CFR** Parts 401, 422E
0938-0449	440.180, 441.300 - 441.310
0938-0454	424.20
0938-0456	412.105
0938-0463	413.20, 413.24, 413.106
0938-0467	431.17, 431.306, 435.910, 435.920, 435.940 - 435.960
0938-0469	417.126, 422.502, 422.516
0938-0470	417.143, 422.6
0938-0477	412.92
0938-0484	424.123
0938-0501	406.15
0938-0502	433.138
0938-0512	486.301 - 486.348
0938-0526	475.102, 475.103, 475.104, 475.105, 475.106
0938-0534	410.38, 424.5
0938-0544	493.1 - 493.2001
0938-0564	411.32
0938-0565	411.20 - 411.206
0938-0566	411.404, 411.406, 411.408
0938-0573	412.256
0938-0578	447.534
0938-0581	493.1 - 493.2001
0938-0599	493.1 - 493.2001
0938-0600	405.371, 405.378, 413.20
0938-0610	417.436, 417.801, 422.128, 430.12, 431.20, 431.107, 483.10, 484.10, 489.102
0938-0612	493.801, 493.803, 493.1232, 493.1233, 493.1234, 493.1235, 493.1236, 493.1239, 493.1241, 493.1242, 493.1249, 493.1251, 493,1252, 493.1253, 493.1254, 493.1255, 493.1256, 493.1261, 493.1262, 493.1263, 493.1269, 493.1273, 493.1274, 493.1278, 493.1283, 493.1289, 493.1291, 493.1299
0938-0618	433.68, 433.74, 447.272
0938-0653	493.1771, 493.1773, 493.1777
0938-0657	405.2110, 405.2112

0938-0658	405.2110, 405.2112
0938-0667	482.12, 488.18, 489.20, 489.24
0938-0686	493.551 - 493.557
0938-0688	486.301 - 486.325
0938-0691	412.106
0938-0692	466.78, 489.20, 489.27
0938-0701	422.152
0938-0702	**45 CFR** 146.111, 146.115, 146.117, 146.150, 146.152, 146.160, 146.180
0938-0703	**45 CFR** 148.120, 148.122, 148.124, 148.126, 148.128
0938-0714	411.370 - 411.389
0938-0717	424.57
0938-0721	410.33
0938-0723	421.300 - 421.316
0938-0730	405.410, 405.430, 405.435, 405.440, 405.445, 405.455, 410.61, 415.110, 424.24
0938-0732	417.126, 417.470
0938-0734	**45 CFR** 5b
0938-0739	413.337, 413.343, 424.32, 483.20
0938-0749	424.57
0938-0753	422.000 - 422.700
0938-0754	441.151, 441.152
0938-0758	413.20, 413.24
0938-0760	484.55, 484.205, 484.245, 484.250
0938-0761	484.11, 484.20
0938-0763	422.250, 422.252, 422.254, 422.256, 422.258, 422.262, 422.264, 422.266, 422.270, 422.300, 422.304, 422.306, 422.308, 422.310, 422.312, 422.314, 422.316, 422.318, 422.320, 422.322, 422.324, 423.251, 423.258, 423.265, 423.272, 423.286, 423.293, 423.301, 423.308, 423.315, 423.322, 423.329, 423.336, 423.343, 423.346, 423.350
0938-0770	410.2
0938-0778	422.111, 422.564
0938-0779	417.126, 417.470, 422.64, 422.210
0938-0781	411.404, 484.10
0938-0786	438.352, 438.360, 438.362, 438.364
0938-0790	460.12 - 460.210
0938-0792	491.8, 491.11
0938-0796	422.64
0938-0798	413.24, 413.65, 419.42
0938-0802	419.43
0938-0818	410.141 - 410.146, 414.63

0938-0829	422.568
0938-0832	Parts 489 and 491
0938-0833	483.350 - 483.376
0938-0841	431.636, 457.50, 457.60, 457.70, 457.340, 457.350, 457.431, 457.440, 457.525, 457.560, 457.570, 457.740, 457.750, 457.810, 457.940, 457.945, 457.965, 457.985, 457.1005, 457.1015, 457.1180
0938-0842	412.23, 412.604, 412.606, 412.608, 412.610, 412.614, 412.618, 412.626, 413.64
0938-0846	411.352 - 411.361
0938-0857	Part 419
0938-0860	Part 419
0938-0866	**45 CFR** Part 162
0938-0872	413.337, 483.20
0938-0873	422.152
0938-0874	**45 CFR** Parts 160 and 162
0938-0878	Part 422 Subparts F and G
0938-0887	**45 CFR** 148.316, 148.318, 148.320
0938-0897	412.22, 412.533
0938-0907	412.230, 412.304, 413.65
0938-0910	422.620, 422.624, 422.626
0938-0911	426.400, 426.500
0938-0915	421.120, 421.122
0938-0916	483.160
0938-0920	438.6, 438.8, 438.10, 438.12, 438.50, 438.56, 438.102, 438.114, 438.202, 438.206, 438.207, 438.240, 438.242, 438.402, 438.404, 438.406, 438.408, 438.410, 438.414, 438.416, 438.604, 438.710, 438.722, 438.724, 438.810
0938-0921	414.804
0938-0931	**45 CFR** 142.408, 162.408, and 162.406
0938-0933	438.50
0938-0935	422 Subparts F and K
0938-0936	423
0938-0939	405.502
0938-0944	422.250, 422.252, 422.254, 422.256, 422.258, 422.262, 422.264, 422.266, 422.270, 422.300, 422.304, 422.306, 422.308, 422.310, 422.312, 422.314, 422.316, 422.318, 422.320, 422.322, 422.324, 423.251, 423.258, 423.265, 423.272, 423.279, 423.286, 423.293, 423.301, 423.308, 423.315, 423.322, 423.329, 423.336, 423.343, 423.346, 423.350
0938-0950	405.910
0938-0951	423.48

0938-0953	405.1200 and 405.1202
0938-0954	414.906, 414.908, 414.910, 414.914, 414.916
0938-0957	Part 423 Subpart R
0938-0964	403.460, 411.47
0938-0969	421.405
0938-0975	423.562(a)
0938-0976	423.568
0938-0977	Part 423 Subpart R
0938-0978	423.464
0938-0982	422.310, 423.301, 423.322, 423.875, 423.888
0938-0986	412.20-412.30
0938-0990	423.56
0938-0992	423.505, 423.514
0938-0993	1396
0938-0997	424.5
0938-0999	42 CFR 424 Subpart C
0938-1009	411.357(v), 411.357(w)
0938-1020	412.525(a)(4), 412.529(c)(3), 412.84(i)(2)
0938-1024	1396
0938-1026	447.52
0938-1013	423.56e
0938-1019	405.1206, 422.622
0938-1023	422.152a
0938-1034	42 CDR 489.20

Addendum VIII
Medicare-Approved Carotid Stent Facilities
[October Through December 2008]

On March 17, 2005, we issued our decision memorandum on carotid artery stenting. We determined that carotid artery stenting with embolic protection is reasonable and necessary only if performed in facilities that have been determined to be competent in performing the evaluation, procedure, and follow-up necessary to ensure optimal patient outcomes. We have created a list of minimum standards for facilities modeled in part on professional society statements on competency. All facilities must at least meet our standards in order to receive coverage for carotid artery stenting for high risk patients.

Facility	Provider Number	Effective Date	State	Additional Information
Christian Hospital Northeast 11155 Dunn Road, Ste. 300N St. Louis, MO 63136	260180	04/04/2008	MO	N/A
Overland Park Regional Medical Center 10500 Quivira Road Overland Park, KS 66215	170176	04/04/2008	KS	N/A
Franklin Hospital 900 Franklin Avenue Valley Stream, NY 11580	330372	04/11/2008	NY	N/A
Muskogee Regional Medical Center 300 Rockefeller Drive Muskogee, OK 74401	370025	04/11/2008	OK	N/A

University of New Mexico Hospital 1 University of New Mexico Albuquerque, NM 87131	320001	04/11/2008	NM	MSC105610
OakBend Medical Center 1705 Jackson Street Richmond, TX 77469	450330	04/28/2008	TX	N/A
South Florida Baptist Hospital 301 North Alexander Street Plant City, FL 33563	100132	04/28/2008	FL	N/A
Bayfront Medical Center 701 Sixth Street South St. Petersburg, FL 33701	100032	05/05/2008	FL	N/A
Palmyra Medical Centers 2000 Palmyra Road Albany, GA 31702-1908	110163	05/20/2008	GA	P.O. Box 1908
Alvarado Hospital, LLC 6655 Alvarado Road San Diego, CA 92120	050757	05/22/2008	CA	N/A
West Valley Hospital 13677 W. McDowell Road Goodyear, AZ 85395	030110	05/22/2008	AZ	N/A
Edward Hospital 801 S. Washington Street Naperville, IL 60540	140231	06/09/2008	IL	N/A
St. Dominic Hospital 969 Lakeland Drive Jackson, MS 39216-4699	250048	06/09/2008	MS	N/A
Paradise Valley Hospital 2400 East Fourth Street National City, CA 91950	050024	06/09/2008	CA	N/A
Phoebe Putney Memorial Hospital 417 Third Avenue Albany, GA 31702-1828	110007	06/09/2008	GA	PO Box 1828

Flagstaff Medical Center 1200 North Beaver Street Flagstaff, AZ 86001	030023	06/17/2008	AZ	N/A
Williamson Medical Center 4321 Carothers Parkway Franklin, TN 37067	440029	07/03/2008	TN	N/A
Mercy Medical Center 250 Mercy Drive Dubuque, IA 52001	160069	07/16/2008	IA	N/A
Bethesda Memorial Hospital 2815 S. Seacrest Boulevard Boynton Beach, FL 33435	100002	07/21/2008	FL	N/A
Mercy Medical Center - North Iowa 1000 4th Street SW Mason City, IA 50401	160064	07/21/2008	IA	N/A
Saint Vincent Hospital 123 Summer Street Worcester, MA 01608	220176	07/31/2008	MA	N/A
Arizona Regional Medical Center 515 North Mesa Drive Mesa, AZ 85201	1669639639	09/10/2008	AZ	N/A
Winthrop University Hospital 222 Station Plaza North Suite 607 Mineola, Long Island, NY 11501	330167	09/10/2008	NY	N/A
Deaconess Hospital 5501 N. Portland Avenue Oklahoma City, OK 73112	370032	09/10/2008	OK	N/A
Del Sol Medical Center 10301 Gateway West El Paso, TX 79925	450634	09/23/2008	TX	N/A
Saint Francis Hospital 355 Ridge Avenue Evanston, IL 60202	140080	09/23/2008	IL	N/A

Bellin Health 744 S. Webster Avenue Green Bay, WI 54305-3400	520049	09/23/2008	WI	PO Box 23400
Advocate Good Shepherd Hospital 450 W. Highway 22 Barrington, IL 60010	1447368071	10/14/2008	IL	N/A
Dallas Regional Medical Center 1011 N. Galloway Avenue Mesquite, TX 75149	450031	10/24/2008	TX	N/A
Providence Hospital 6801 Airport Boulevard Mobile, AL 36685	001090	10/24/2008	AL	PO Box 850429
Blake Medical Center 2020 59th Street West Bradenton, FL 34209	100213	11/06/2008	FL	N/A
Proctor Hospital 5409 North Knoxville Avenue Peoria, IL 61614	140013	11/06/2008	IL	N/A
St. Jude Medical Center 101 E. Valencia Mesa Drive Fullerton, CA 92835	050168	11/06/2008	CA	N/A
The Western Pennsylvania Hospital Forbes Regional Campus 2570 Haymaker Road Monroeville, PA 15146	390267	11/18/2008	PA	N/A
Franciscan Physicians Hospital 701 Superior Avenue Munster, IN 46321	150065	12/03/2008	IN	N/A
Marin General Hospital 250 Bon Air Road Greenbrae, CA 94904-1784	050360	12/03/2008	CA	N/A

Reid Hospital & Health Care Services 1100 Reid Parkway Richmond, IN 47374	150048	12/03/2008	IN	N/A
St. Mary's Medical Center 901 45th Street West Palm Beach, FL 33407	100288	12/03/2008	FL	N/A
Capital Health System-Fuld Campus 750 Brunswick Avenue Trenton, NJ 08638	1275583726	01/20/2009	NJ	N/A
Helen Ellis Memorial Hospital 1395 South Pinellas Avenue Tarpon Springs, FL 34689	100055	01/20/2009	FL	N/A
Palms West Hospital 13001 Southern Boulevard Loxahatchee, FL 33470-1150	100269	01/20/2009	FL	N/A
Memorial Herman Northwest 1635 North Loop West Houston, TX 77008	450184	01/20/2009	TX	N/A
Mercy Medical Center 1320 Mercy Drive Canton, OH 44708	360070	01/29/2009	OH	N/A

Addendum IX

American College of Cardiology's National Cardiovascular Data Registry Sites [October Through December 2008]

In order to obtain reimbursement, Medicare national coverage policy requires that providers implanting ICDs for primary prevention clinical indications (that is, patients without a history of cardiac arrest or spontaneous arrhythmia) report data on each primary prevention ICD procedure. This policy became effective January 27, 2005. Details of the clinical indications that are covered by Medicare and their respective data reporting requirements are available in the Medicare National Coverage Determination (NCD) Manual, which is on the Centers for Medicare & Medicaid Services (CMS) Web site at http://www.cms.hhs.gov/Manuals/IOM/itemdetail.asp?filterType=none&filterByDID=99&sortByDID=1&sortOrder=ascending&itemID=CMS014961 .

A provider can use either of two mechanisms to satisfy the data reporting requirement. Patients may be enrolled either in an Investigational Device Exemption trial studying ICDs as identified by the FDA or in the American College of Cardiology's National Cardiovascular Data Registry (ACC-NCDR) ICD registry. Therefore, in order for a beneficiary to receive a Medicare-covered ICD implantation for primary prevention, the beneficiary must receive the scan in a facility that participates in the ACC-NCDR ICD registry.

We maintain a list of facilities that have been enrolled in this registry. Addendum IX includes the facilities that have been designated in the quarter covered by this notice.

Facility Name	Address1	Address2	City	State	Zip
Abbott Northwestern Hospital	800 East 28th Street (Internal Zip 33210)		Minneapolis	MN	55407
Abilene Regional Medical Center	6250 Highway 83-84 Antilley Road		Abilene	TX	97606
Abington Memorial Hospital	1200 York Road		Abington	PA	19446
Adena Regional Medical Center	272 Hospital Road		Chillicothe	OH	45601
Adventist Bolingbrook Hospital	120 North Oak Street		Bolingbrook	IL	60440
Adventist Medical Center	10123 SE Market Street		Portland	OR	97216
Advocate Christ Medical Center	4440 West 95th Street	#127NOB	Oak Lawn	IL	60453
Advocate Good Shepherd Hospital	450 W. Highway 22		Barrington	IL	60010
Advocate Illinos Masonic Medical Center	836 W. Wellington		Chicago	IL	60657
Advocate Lutheran General Hospital	1775 Dempster Street		Park Ridge	IL	60068
Advocate South Suburban Hospital	17800 S. Kedzie Avenue		Hazel Crest	IL	60429

Affinity Medical Center	400 Austin Avenue		Massillon	OH	44646
Aiken Regional Medical Center	302 University Parkway		Aiken	SC	29802
Akron City Hospital	525 East Market Street		Akron	OH	44309-2090
Akron General Medical Center	400 Wabash Avenue	Heart & Vascular Center	Akron	OH	44307
Alamance Regional Medical Center	PO Box 202		Burlington	NC	27216
Alaska Regional Hospital	2801 Debarr Road		Anchorage	AK	99508
Albany Medical Center Hospital	43 New Scotland Avenue		Albany	NY	12208
Albert Einstein Medical Center	5501 Old York Road		Philadelphia	PA	19141
Alegent Health Bergan Mercy Medical Center	7500 Mercy Road		Omaha	NE	68124
Alegent Health Immanuel Medical Center	6828 North 72nd Street	Suite 3000N	Omaha	NE	68122-1709
Alegent Health Mercy Hospital	6901 North 72nd Street		Omaha	NE	68122
Alexian Brothers Medical Center	800 Biesterfield Road		Elk Grove Village	IL	60007-3311
Allegheny General Hosptial	320 East North Avenue		Pittsburg	PA	15212
Allegiance Health (W.A. Foote	205 N. East Avenue	Heart Center 1st Floor	Jackson	MI	49201

Memorial Hospital					
Allen Memorial Hospital	1825 Logan Avenue		Waterloo	IA	50703
Alpena Regional Medical Center	1501 W. Chisholm Street		Alpena	MI	49707
Alta Bates Medical Center	2450 Ashby Avenue		Berkeley	CA	94705
Alta Bates Summit Medical Center	350 Hawthorne Avenue		Oakland	CA	94609
Alton Memorial Hospital	1 Memorial Drive		Alton	IL	62067
Altoona Hospital	620 Howard Avenue		Altoona	PA	16601
Altru Health System	1200 South Columbia Road		Grand Forks	ND	58201
Alvarado Hospital	6645 Alvarado Road		San Diego	CA	92120
Anaheim Memorial Medical Ctr.	1111 W. La Palma Avenue		Anaheim	CA	92801
AnMed Health	800 Fant Street		Anderson	SC	29621
Anna Jaques Hospital	25 Highland Avenue		Newburyport	MA	01950
Anne Arundel Medical Center	2001 Medical Parkway		Annapolis	MD	21404
Appleton Medical Center/ThedaClark Medical Center	1818 N. Meade Street	Rm 165-B	Appleton	WI	54911

Arizona Heart Hospital	1930 East Thomas Road		Phoenix	AZ	85016
Arizona Regional Medical Center	4838 East Baseline Road	Suite 109-110	Mesa	AZ	85206
Arkansas Heart Hospital	1701 S. Shackelford Road		Little Rock	AR	72202
Arlington Memorial Hospital	800 W. Randol Mill Road		Arlington	TX	76012
Arnot-Ogden Medical Center	600 Roe Avenue		Elmira	NY	14905
Arrowhead Hospital	18701 N. 67th Avenue		Glendale	AZ	85308
Aspirus Wausau Hospital	333 Pine Ridge Boulevard		Wausau	WI	54401
Athens Regional Medical Center	1199 Prince Avenue		Athens	GA	30606
Atlanta Medical Center	303 Parkway Drive NE		Atlanta	GA	30312
Atlanticare Regional Medical Center	2500 English Creek Avenue		Egg Habour Township	NJ	08234
Atrium Medical Center	One Medical Center		Franklin	OH	45005
Audrain Medical Center	620 E. Monroe Street		Mexico	MO	65265
Aultman Hospital	2600 Sixth Street SW		Canton	OH	44710
Aurora BayCare Medical Center	2845 Greenbrier Road		Green Bay	WI	54308
Aurora Medical Center – Kenosha	2900 W. Oklahoma Avenue		Milwaukee	WI	53132

Aurora Medical Center of Washington County	1032 E. Sumner Street		Hartford	WI	53027
Aurora Memorial Hospital of Burlington	252 Mc Henry Street		Burlington	WI	53105
Aurora Sheboygan Memorial Medical Center	2629 N. 7th Street		Sheboygan	WI	53083
Aurora Sinai Medical Center	945 N. 12th Street		Milwaukee	WI	53233
Aurora West Allis Memorial Hospital	2900 E. Oklahoma Avenue		Milwaulee	WI	53215
Aventura Hospital and Medical Center	5631 Glencrest Boulevard		Tampa	FL	33625-1008
Avera Heart Hospital of South Dakota	4500 West 69th Street		Sioux Falls	SD	57108
Avera Sacred Heart Hospital	501 Summit		Yankton	SD	57078
Avera St. Luke's	305 South State Street		Aberdeen	SD	57401
Bakersfield Heart Hospital	3001 Sillect Avenue		Bakersfield	CA	93308
Bakersfield Memorial Hospital	420 34th Street	PO Box 1888	Bakersfield	CA	93303-1888
Ball Memorial Hospital	2401 University Avenue		Muncie	IN	47303

Baltimore Washington Medical Center	301 Hosptial Drive	2nd Floor Cardiac Cath Lab	Glen Burnie	MD	21061
Banner Boswell Medical Center	10401 W. Thunderbird Boulevard		Sun City	AZ	85351
Banner Desert Medical Center	Banner Desert Medical Center, Quality Management	1400 S. Dobson Road	Mesa	AZ	85202
Banner Estrella Medical Center	9201 W. Thomas Road		Phoenix	AZ	85037
Banner Good Samaritan Med Center	1111 East McDowell Road		Phoenix	AZ	85006-2612
Banner Heart Hospital	6750 E. Baywood Avenue		Mesa	AZ	85206
Banner Thunderbird Med Center	5555 W. Thunderbird Road		Glendale	AZ	85306
Baptist Health Medical Center	9601 Interstate 630 Exit 7		Little Rock	AR	72205-7299
Baptist Health Medical Center	3333 Springhill Drive		North Little Rock	AR	72117
Baptist Hospital	1000 W. Moreno Street		Pensacola	FL	32501
Baptist Hospital	4220 Harding Road		Nashville	TN	37202
Baptist Hospital East	4000 Kresge Way		Louisville	KY	40207
Baptist Hospital of East Tennessee	10820 Parkside Drive		Knoxville	TN	37934
Baptist Hospital of Miami	8900 SW 88th Street		Miami	FL	33176
Baptist Hospital West	10820 Parkside Drive		Knoxville	TN	37934
Baptist Medical Center	800 Prudential Drive		Jacksonville	FL	32207

Baptist Medical Center	730 North Main Avenue	Suite 409	San Antonio	TX	78205
Baptist Memorial Hospital North Mississippi	2301 South Lamar Boulevard		Oxford	MS	38655
Baptist Memorial Hospital	6019 Walnut Grove Road		Memphis	TN	38120
Baptist Memorial Hospital-Desoto	7601 Southcrest Parkway		Southaven	MS	38671
Baptist Memorial Hospital-Union City	1201 Bishop Street		Union City	TN	38261
Baptist St. Anthony's Health Systems	1600 Wallace Boulevard		Amarillo	TX	79106
Barberton Citizens Hospital	155 5th Street NE		Barberton	OH	44203
Barnes Jewish Hospital/Washington University	#1 Barnes Jewish Hospital Plaza	SW Tower-Main. Mailstop 90-59-315	Saint Louis	MO	63110-9930
Barstow Community Hospital	555 South Seventh Street		Barstow	CA	92311
Barstow Regional Medical Center	2200 Osprey Boulevard PO Box 1050		Barstow	FL	33831-1050
Bassett Healthcare-(Mary Imogene Bassett Hospital)	One Atwell Road		Cooperstown	NY	13326
Baton Rouge General Medical Center	3600 Florida Boulevard		Baton Rouge	LA	70806
Battle Creek Health System	300 North Avenue		Battle Creek	MI	49016

Baxter Regional Medical CenterAttn: A/P	624 Hospital Drive		Mountain Home	AR	72653
Bay Medical Center	615 North Bonita Avenue		Panama City	FL	32401
Bay Regional Medical Center	1900 Columbus Avenue		Bay City	MI	48708
Bayfront Medical Center	701 Sixth Street South		St. Petersburg	FL	33701
Bayhealth Medical Center(KGH)	640 S. State Street		Dover	DE	19901
Baylor All Saints Medical Center at Fort Worth	1400 8th Avenue		Fort Worth	TX	76104
Baylor Jack and Jane Hamilton Heart and Vascular Hospital	621 North Hall Street		Dallas	TX	75226
Baylor Medical Center at Garland	2300 Marie Curie Drive		Garland	TX	75042
Baylor Medical Center at Irving	1901 North MacArthur Boulevard		Irving	TX	75061
Baylor Regional Medical Center at Grapevine	1650 West College Street		Grapevine	TX	76051
Bayshore Medical Center	4000 Spencer Highway		Pasadena	TX	77504
Baystate Medical Center	759 Chestnut Street	Springfield 4 4558	Springfield	MA	01199
Beauregard Memorial Hospital	600 S. Pine Street		Deridder	LA	70634

Bellevue Hospital Center	462 First Avenue		New York	NY	10016
Bellin Memorial Hospital	744 S. Webster Avenue	Cardiac Data Center 5th Floor	Green Bay	WI	54301
Benefis Healthcare	1101 26th Street South		Great Falls	MT	59405-5161
Berkshire Medical Center, Inc.	725 North Street		Pittsfield	MA	01201-4124
Bert Fish Medical Center	401 Palmetto Street		New Smyrna Beach	FL	32168
Beth Israel Deaconess Medical Center	185 Pilgrim Road		Boston	MA	02215
Bethesda Memorial Hospital	2815 S. Seacrest Blvd		Boynton Beach	FL	33435
Bethesda North Hospitals	375 Dixmyth Avenue		Cincinnati	OH	45220-2489
Beverly Hospital	85 Herrick Street		Beverly	MA	01915
Bexar County Hospital District d.b.a. University Health	4502 Medical Drive	Stop 34-1	San Antonio	TX	78229
Biloxi Regional Medical Center	150 Reynoir Street		Biloxi	MS	39531
Blake Medical Center	2020 59th Street West		Bradenton	FL	34209
Blanchard Valley Hospital	1900 South Main Street	HeartCare Center	Findlay	OH	45840
Blessing Hospital	1005 Broadway	PO Box 7005	Quincy	IL	62305-7005

Bloomington Hospital	601 W. Second Street		Bloomington	IN	47403
Blue Ridge HealthCare	2201 South Sterling Street		Morganton	NC	28655
Boca Raton Community Hospital	12201 NW Second Place		Coral Springs	FL	33071
Bon Secours DePaul Medical Center	150 Kingsley Lane		Norfolk	VA	23505
Bon Secours – Maryview Medical Center	3636 High Street		Portsmouth	VA	23707
Bon Secours-Memorial Regional Medical Center	5801 Bremo Road	Suite 310, North Medical Office Building	Richmond	VA	23226
Bon Secours St Francis Medical Center	13701 Centerpointe Parkway		Midlothian	VA	23114
Bon Secours St. Marys Hospital	5801 Bremo Road	Suite 310, North Medical Office Building	Richmond	VA	23226
Boone Hospital Center	1600 E. Broadway		Columbia	MO	65201-5897
Borgess Medical Center	1521 Gull Road		Kalamazoo	MI	49048
Boston Medical Center	One Boston Medical Place		Boston	MA	
Botsford Hospital	28050 Grand River Avenue		Farmington Hills	MI	48336
Boulder Community	1100 Balsam Avenue		Boulder	CO	80304

Hospital					
Braddock Campus	900 Seton Drive		Cumberland	MD	21502-1850
Brandon Regional Hospital	119 Oakfield Drive		Brandon	FL	33511
Brandon Regional Hospital	119 Oakfield Drive	Attn: CCL	Brandon	FL	33511
Brandywine Hospital	201 Reeceville Road		Coatesville	PA	19320
Bridgeport Hospital	267 Grant Street		Bridgeport	CT	06610
Brigham & Womens Hospital	75 Francis Street	L258A	Boston	MA	02115
Bromenn Hospital	PO Box 2850		Bloomington	IL	61702-2850
Bronson Methodist Hospital	601 John Street		Kalamazoo	MI	49007-5348
Brookdale Hospital & Medical Center	1 Brookdale Plaza		Brooklyn	NY	11212
Brooklyn Hospital Center	121 DeKalb Avenue		Brooklyn	NY	11201
Brooksville Regional Hospital	17240 Cortez Boulevard		Brooksville	FL	34601
Brookwood Medical Center	2010 Brookwood Medical Center		Birmingham	AL	35209
Brotman Medical Center	3828 Delmas Terrance		Culver City	CA	90232
Broward General Medical Center	1600 S. Andrews Avenue		Ft. Lauderdale	FL	33316
Brownsville Doctors Hospital	4750 N. Expressway		Brownville	TX	78526

Bryan LGH Medical Center	1600 South 48th Street		Lincoln	NE	68526
Bryn Mawr Hospital	Suite 557 Lankenau MOB East	100 Lancaster Avenue	Wynnewood	PA	19096
Buffalo General Hospital/Aaron Health Sciences Library 4D	100 High Street		Buffalo	NY	14203
Cabell Huntington Hospital	1340 Hal Greer Boulevard		Huntington	WV	25701
California Pacific Medical Center	2330 Clay Street, Stern Building, Room #103	Stern Building, Room #103	San Francisco	CA	94115
CAMC Teays Valley Hospital	1400 Hospital Drive		Hurricane	WI	25526
Camden-Clark Memorial Hospital	800 Garfield Avenue		Parkersburg	WV	26101
Candler Hospital, Inc.	5353 Reynolds Street		Savannah	GA	31405
Cape Canaveral Hospital	701 West Cocoa Beach Causeway		Cocoa Beach	FL	32931
Cape Cod Hospital	40 Quinlan Way		Hyannis	MA	02601
Cape Fear Valley Health System	303 Wagoner Drive		Fayetteville	NC	28303-4646
Capital Regional Medical Center	□arbara.scott3@ hcahealthcare.com		Tallahassee	FL	32308
Capital Regional Medical Center	1125 Madison Street (PO Box 1128)		Jefferson City	MO	65102-1128
Cardiovascular Center of Puerto Rico	PO Box 366528		San Juan	PR	00936-6528
Carilion Roanoke Memorial Hosp	Att: Cardiac Cath Lab	PO Box 13367	Roanoke	VA	24033-3367

Caritas Norwood Hospital	800 Washington Street		Norwood	MA	02062
Caritas St. Elizabeths Med Center	736 Cambridge Street		Boston	MA	02135
Carle Foundation Hospital	611 W. Park Street		Urbana	IL	61801
Carolina Pines Regional Medical Center	1304 W BoBo Newsom Highway		Hartsville	SC	29550
Carolinas Hospital System	805 Pamplico Highway		Florence	SC	29505
Carolinas Medical Center	1001 Blythe Boulevard		Charlotte	NC	28227
Carolinas Medical Center – Mercy	2001 Vail Avenue	Cath Lab	Charlotte	NC	28207
Carondelet Heart Institute at St. Joseph Medical Center	1000 Carondelet Drive		Kansas City	MO	64114
Carroll Hospital Center	200 Memorial Avenue		Westminster	MD	21157
Carson Tahoe Regional Medical Center	1600 Medical Parkway		Carson City	NV	89706
Cartersville Medical Center	PO Box 20008		Cartersville	GA	30120
Casa Grande Regional Medical Center	1800 E. Florence Boulevard		Casa Grande	AZ	85222
Castleview Hospital	300 North Hospital Drive		Price	UT	84501

Catawba Valley Medical Center	810 Fairgrove Church Road		Hickory	NC	28602
Catholic Medical Center	100 McGregor Street	Level C Room 248	Manchester	NH	03102-3770
Cayuga Medical Center at Ithaca	101 Dates Drive		Ithaca	NY	14850
Cedars-Sinai Health Systems	8700 Beverly Boulevard	MGB 901	Los Angeles	CA	90048
Centennial Hills Hospital Medical Center	6900 N. Durango Drive		Las Vegas	NV	89149-4409
Centennial Medical Center	12505 Lebanon Boulevard		Frisco	TX	75035
Centennial Medical Center	2300 Patterson Street		Nashville	TN	37203
Centerpoint Medical Center	19600 E. 39th Street		Independence	MO	64057
Centinela Hospital Medical Center	555 E. Hardy Street		Inglewood	CA	90301
Central Baptist Hospital	1800 Nicholasville Road Suite 401		Lexington	KY	40503
Central DuPage Hospital	25 N. Winfield Road		Winfield	IL	60190
Central Florida Regional Hospital	1401W. Seminole Boulevard		Sanford	FL	32771
Central Maine Medical Center	300 Main Street		Lewiston	ME	04240
Central Minnesota Heart Center at St. Cloud Hospital	1406 Sixth Ave. North		St. Cloud	MN	56303

Central Mississippi Medical Center	1850 Chadwick Drive		Jackson	MS	39204
Chandler Regional Medical Center	475 S. Dobson Road	Quality Management Department	Chandler	AZ	85224
Charleston Area Medical Center	501 Morris Street		Charleston	WV	25301
Charlotte Regional Medical Center	809 East Marion Avenue		Punta Gorda	FL	33950
Charlton Memorial Hospital	363 Highland Avenue		Fall River	MA	02720-3700
Chattanooga-Hamilton County Hospital Authority/ER	975 E. Third Street		Chattanooga	TN	37403
Chesapeake General Hospital	736 Battlefield Boulevard North		Chesapeake	VA	23320
Cheshire Medical Center	580 Court Street		Keene	NH	03431
Chester County Hospital	701 East Marshall Street		West Chester	PA	19380
Chester River Hospital Center	100 Brown Street		Chestertown	MD	21620
Cheyenne Regional Medical Center	Cheyenne Regional Medical Center	214 E. 23rd Street	Cheyenne	WY	82001
Christian Hospital	11133 Dunn Road		St Louis	MO	63136
Christiana Care Health System	4755 Ogletown-Stanton Road		Newark	DE	19718
Christus Hospital-St. Mary	3600 Gates Boulevard		Port Arthur	TX	77642

Christus Saint Elizabeth Hospital	2830 Calder Street		Beaumont	TX	77702
Christus Santa Rosa Hospital	2827 Babcock Road		San Antonio	TX	78229
Christus Spohn Hospital Corpus Christi – Shoreline	600 Elizabeth Street		Corpus Christi	TX	78404
Christus St. Michael Health System	2600 St. Michael Drive		Texarkana	TX	75503
Christus St. Patrick Hospital	524 South Ryan Street		Lake Charles	LA	70602-3401
Christus – Schumpert Highland Hospital	One St. Mary Place		Shreveport	LA	71101
Christus – St. Frances Cabrini Hospital	3330 Masonic Drive	Cath Lab	Alexandria	LA	71301
Citrus Memorial Health System	502 W. Highland Boulevard		Inverness	FL	34452
CJW Medical Center	7101 Jahnke Road		Richmond	VA	23225-4044
Clarian Health Partners-Methodist Hospital campus	1701 N. Senate Boulevard	Room A1082	Indianapolis	IN	46202
Clarian North Medical Center	11725 Illinois Street B-178		Carmel	IN	46032
Clark Memorial Hospital	1220 Missouri Avenue		Jeffersonville	IN	47130
Clear Lake Regional Medical Center	500 Medical Center Boulevard		Webster	TX	77598
Cleveland Clinic Florida	3100 Weston Road		Weston	FL	33331

Cleveland Clinic Foundation	9500 Euclid Avenue		Cleveland	OH	44195
Coliseum Medical Centers	350 Hospital Drive		Macon	GA	31217
College Station Medical Center	1604 Rock Prairie Road		College Station	TX	77845
Columbia Hospital	2025 E. Newport Avenue		Milwaukee	WI	53211
Columbia Regional Hospital	404 Keene Street		Columbia	MO	65201
Columbia St. Mary's Hospital Milwaukee	4425 N. Port Washington Road		Milwaukee	WI	53212
Columbia St. Mary's Hospital Ozaukee	13111 N. Port Washington Road		Mequon	WI	53097
Columbus Cardiovascular Care, PLLC	2520 5th Street North PO Box 1307		Columbus	MS	39703
Columbus Regional Hospital	2400 17th Street		Columbus	IN	47201
Comanche County Memorial Hospital	3401 W. Gore Boulevard	PO Box 129	Lawton	OK	73505
Community Health Partners	3700 Kolbe Road		Lorain	OH	44053
Community Hospital	The Community Hospital	901 MacArthur Boulevard	Munster	IN	46321
Community Hospital and Wellness Center	433 West High Street		Bryan	OH	43506
Community Hospital East	Cardiovascular Services	1500 North Ritter Avenue	Indianapolis	IN	46219

Community Hospital of the Monterey Peninsula	PO Box HH		Monterey	CA	93942-1085
Community Hospital South	1500 N. Ritter Avenue		Indianapolis	IN	46219-3027
Community Medical Center	2827 Fort Missoula Road		Missoula	MT	59804
Community Medical Center	99 Highway 37 West		Toms River	NJ	08775
Community Medical Center	1800 Mulberry Street		Scranton	PA	18510
Community Medical Center-Clovis	2755 Herndon Avenue		Clovis	CA	93611
Community Memorial Hospital	147 N. Brent Street		Ventura	CA	93003
Community Memorial Hospital	W180 N8085 Town Hall Road		Menomonee Falls	WI	53052
Concord Hospital	250 Pleasant Street		Concord	NH	03301
Condell Medical Center	801 S. Milwaukee Avenue		Libertyville	IL	60048
Conroe Regional Medical Center	504 Medical Center Boulevard		Conroe	TX	77304
Covenant Heart Institute	3615 19th Street		Lubbock	TX	79410
Conway Regional Medical Center	2302 College Avenue		Conway	AR	72034-6226
Cookeville Regional Medical Center	142 W. 5th Street		Cookeville	TN	38501-1760
Cooley Dickinson Hospital	30 Locust Street		Northampton	MA	01060

Cooper University Hospital	One Cooper Plaza	D386B	Camden	NJ	08103
Coral Gables Hospital	3100 Douglas Road		Coral Gables	FL	33134
Corpus Christi Medical Center	7101 SPID		Corpus Christi	TX	78412
County of Santa Clara	751 S. Bascom Avenue		San Jose	CA	95128
Covenant Healthcare	1447 N. Harrison Street		Saginaw	MI	48602
Covenant Medical Center	3421 West Ninth Street.		Waterloo	IA	50702
Cox Medical Center South	3801 S. National Avenue		Springfield	MO	65807
Craven Regional Medical Center	2000 Neuse Boulevard	PO Box 12157	New Bern	NC	28560
Creighton University Medical Center	601 N. 30th Street		Omaha	NE	68131
Crestwood Medical CenterTriad Hospitals, Inc.	One Hospital Drive		Huntsville	AL	35801-3495
Crittenton Hospital Medical Center	1101 W. University Drive		Rochester	MI	48307-1831
Crouse Hospital	736 Irving Avenue		Syracuse	NY	13210
Crozer Chester Medical Center	1 Medical Center Boulevard		Chester	PA	19013-3995
Cumberland Cardiology	5000 US Route 321		Prestonsburg	KY	41653
CVPH Medical Center	75 Beekman Street		Plattsburgh	NY	12901
Cypress Fairbanks	10655 Steepletop Drive		Houston	TX	77065

Medical Center					
Dallas Regional Medical Center	1011 N. Galloway Avenue		Mesquite	TX	75149
Dameron Hospital	525 W. Acacia Street		Stockton	CA	95203
Danbury Hospital	24 Hospital Avenue	Cardiology 2 South	Danbury	CT	06810
Davis Hospital	1600 West Antelope Drive		Layton	UT	84041
Davis Regional Medical Center	218 Old Mocksville Road		Stateville	NC	28625
Dayton Heart Hospital	707 S. Edwin C. Moses Boulevard		Dayton	OH	45408
DCH Regional Medical Center	809 University Boulevard E		Tuscaloosa	AL	35401-2029
Deaconess Billings Clinic	2800 9th Avenue, North		Billings	MT	59101
Deaconess Hospital	311 Straight Street		Cincinnati	OH	45219
Deaconess Hospital	5501 N. Portland Avenue		Oklahoma City	OK	73112
Deaconess Hospital	600 Mary Street		Evansville	IN	47747
Deaconess Medical Center	W. 800 Fifth Avenue		Spokane	WA	99204
Deborah Heart & Lung Center	200 Trenton Road		Browns Mills	NJ	08015
Decatur General Hospital	1201 7th Street		Decatur	AL	35601
Degraff Memorial Hospital	100 High Street		Buffalo	NY	14203
Dekalb Medical Center	2701 N. Decatur Road		Decatur	GA	30033

Dekalb Regional Medical Center	200 Medical Center Drive		Fort Payne	AL	35968
Del Sol Medical Center	10301 Gateway West		El Pasoq	TX	79925
Delray Medical Center	5352 Linton Boulevard		Delray Beach	FL	33484
Delta Regional Medical Center	1400 E. Union Street		Greenville	MS	38702
Denton Regional Medical Center	3535 South I-35E		Denton	TX	76205
Denver Health Medical Center	777 Bannock Street		Denver	CO	80204
DePaul Health Center	12303 DePaul Drive		Bridgeton	MO	63044
Des Peres Hospital	2345 Dougherty Ferry Road		St. Louis	MO	63122
Desert Regional Medical Center	1150 N. Indian Canyon		Palm Springs	CA	92262
Desert Springs Hospital	620 Shadow Lane		Las Vegas	NV	89106
Desert Valley Hospital	16850 Bear Valley Road		Victorville	CA	92392
DeTar Hospital	506 E. San Antonio Street		Victoria	TX	77902
Dixie Regional Medical Center	1380 E. Medical Drive		St. George	UT	84790
Doctors Hospital	5000 University Drive		Miami	FL	33146
Doctors Hospital	5100 West Broad Street		Columbus	OH	43228
Doctors Hospital	9440 Poppy Drive		Dallas	TX	75218

Doctor's Hospital	3983 I-49 S. Service Road		Opelousas	LA	70570
Doctors Hospital at Renaissance	5501 S. McColl Road		Edinburg	TX	78539
Doctors Hospital – Augusta	3651 Wheeler Drive		Augusta	GA	30909
Doctors Hospital of Laredo	10700 McPherson Road		Laredo	TX	78045
Doctors Hospital of Sarasota	5731 Bee Ridge Road		Sarasota	FL	34233
Doctors Hospital – Tidwell	510 West Tidwell Road		Houston	TX	77091
Doctors Medical Center	2000 Vale Road		San Pablo	CA	94806
Doctors Medical Center	1441 Florida Avenue		Modesto	CA	95350
Dominican Santa Cruz Hospital	1555 Soquel Drive		Santa Cruz	CA	95065
Downey Regional Medical Center	11500 Brookshire Avenue		Downey	CA	90241
Doylestown Hospital	595 West State Street		Doylestown	PA	18901
DuBois Regional Medical Center	100 Hospital Avenue		DuBois	PA	15801
Duke Health Raleigh Hospital	DUMC Box 3973 (3400 Wake Forest Road)		Raleigh	NC	27609
Duke University Hospital	Erwin Road DUMC 3943		Durham	NC	27710
Dunn Memorial Hospital	1600 23rd Street		Bedford	ID	47421

Durham Regional Hospital	3634 Roxboro Road		Durham	NC	27704
East Alabama Medical Center	2000 Pepperall Parkway		Opelika	AL	36830
East Georgia Regional Medical Center	1499 Fair Road (PO Box 1048)		Statesboro	GA	30459
East Jefferson General Hospital	4200 Houma Boulevard	Quality Management Department	Metairie	LA	70006
East Ohio Regional Hospital	90 N. 4th Street		Martins Ferry	OH	43935
East Texas Medical Center	1000 S. Beckham Avenue		Tyler	TX	75711
Eastern Idaho RMC	3100 Channing Way		Idaho Falls	ID	83404
Eastern Maine Medical Center	489 State Street	PO Box 404	Bangor	ME	04402-0404
Easton Hospital (Northampton Hospital Corp.)	250 South 21st Street		Easton	PA	18042
Edward Hospital	120 Spalding Drive #205		Naperville	IL	60540
Eisenhower Medical Center	39000 Bob Hope Drive		Rancho Mirage	CA	92270
El Camino Hospital	2500 Grant Road		Mountain View	CA	94040
Eliza Coffee Memorial Hospital	603 West College Street		Florence	AL	35630
Elkhart General Hospital	600 East Boulevard	3 South Suites	Elkhart	IN	46514-2499
Elliot Hospital	1 Elliot Way		Manchester	NH	03103
Ellis Hospital	1101 Nott Street		Schenectady	NY	12308

Elmhurst Hospital Center	79-01 Broadway	Dept of Cardiology, Suite D-54	Elmhurst	NY	11373
Elmhurst Memorial Hospital Marquardt Memorial Lib	200 Berteau Avenue		Elmhurst	IL	60126
EMH Regional Medical Center	630 East River Street		Elyria	OH	44035
Emory Crawford Long Hospital	550 Peachtree Street		Atlanta	GA	30308
Emory Dunwoody Medical Center	4575 North Shallowford Road		Atlanta	GA	30338
Emory University Hospital	1364 Clifton Road, NE C408		Atlanta	GA	30322
Encino-Tarzana Regional Medical Center	18321 Clark Street		Tarzana	CA	91356-3501
Englewood Hospital & Medical Center	350 Engle Street		Englewood	NJ	07631
Enloe Medical Center	1600 Esplanade		Chico	CA	95926
Erie County Medical Center	462 Grider Street		Buffalo	NY	14215
Evanston Hospital	2650 Ridge Ave		Evanston	IL	60201
Evergreen Healthcare	12040 NE 128th Street MS21		Kirkland	WA	98034
Excela Health Westmoreland Hospital	532 West Pittsburgh Street		Greensburg	PA	15601

Exempla good Samaritan Medical Center	2420 W. 26th Avenue Building D Suite 100		Denver	CO	80211
Exempla Lutheran Medical Center	2420 W. 26th Avenue Building D Suite 140		Denver	CO	80211
Exempla Saint Joseph Hospital	2420 W. 26th Avenue Building D Suite 140		Denver	CO	80211
Exeter Hospital	5 Alumni Drive		Exeter	NH	03833
F.E. Lajam, MD PC	140-04 58th Road		Flushing	NY	11355
Fairfield Cardiac Cath Labs	3000 Mack Road	Suite 200	Fairfield	OH	45014
Fairfield Medical Center	401 N. Ewing Street		Lancaster	OH	43130
Fairview Hospital	18101 Lorain Road #329		Cleveland	OH	44111
Fairview Park Hospital	200 Industrial Boulevard		Dublin	GA	31021
Fairview Southdale Hospital	6401 France Avenue South		Edina	MN	55435
Faith Regional Health Services	2700 W. Norfolk Avenue		Norfolk	NE	68701
Fawcett Memorial Hospital	21298 Olean Boulevard		Port Charlotte	FL	33949-4960
Faxton – St. Luke's Campus	1656 Champlin Avenue		New Hartford	NY	13413
FirstHealth Moore Regional Hospital	155 Memorial Drive		Pinehurst	NC	28374

Fisher-Titus Medical Center	272 Benedict Avenue		Norwalk	OH	44857
Flagler Hospital	400 Health Park Boulevard		St. Augustine	FL	32086
Flagstaff Medical Center	1200 N. Beaver Street		Flagstaff	AZ	86001-3198
Fletcher Allen Health Care	111 Colchester Avenue		Burlington	VT	05401
Florida Hospital Zephyrhills	7050 Gall Boulevard		Zephyrhills	FL	33541
Florida Hospital	601 East Rollins Street	Box 99	Orlando	FL	32803
Florida Hospital Fish Memorial	1055 Saxon Boulevard		Orange City	FL	32763
Florida Hospital Ormond Memorial	875 Sterthaus Avenue		Ormond Beach	FL	32174
Florida Hospital Waterman, Inc.	1000 Waterman Way		Tavares	FL	32778
Florida Medical Center	5000 W. Oakland Park Boulevard		Lauderdale Lakes	FL	33313
Flowers Hospital	4370 West Main Street		Dothan	AL	36305
Floyd Medical Center	304 Turner McCall Boulevard		Rome	GA	30165
Forest Hills Hospital	102-01 66th Road		Forest Hills	NY	11375
Forrest General Hospital	6051 Highway 49 South		Hattiesburg	MS	39404-6389
Forsyth Medical Center	3333 Silas Creek Parkway	Clinical Improvement Box 102	Winston-Salem	NC	27103

Fort Sanders Regional Medical Center	1901 Clinch Avenue		Knoxville	TN	37916-2307
Fort Walton Beach Medical Center	1000 Mar Walt Drive		Fort Walton Beach	FL	32547
Forum Health - Northside Medical Center	500 Gypsy Lane		Youngstown	OH	44501-0240
Fountain Valley Regional Hosp	17100 Euclid Street		Fountain Valley	CA	92708-4004
Frankford Hospital	Knights & Red Lion Roads		Philadelphia	PA	19114
Frankfort Regional Medical Center	299 Kings Daughter Drive		Frankfort	KY	40601
Franklin Square Hospital	9000 Franklin Square Drive		Baltimore	MD	21237
Frederick Memorial Hospital	400 W. Seventh Street		Frederick	MD	21710
Freeman Hospital	1102 W. 32nd Street	1102 W. 32nd Street	Joplin	MO	64804
Freeport Health Network	1045 W. Stephenson Street		Freeport	IL	61032
Fremont Area Medical Center	450 East 23rd Street		Fremont	NE	68025
French Hospital Medical Center	1911 Johnson Avenue		St Luis Obispo	CA	93401
Fresno Community Hospital and Medical Center	110 N. Valeria Street #103		Fresno	CA	93710
Fresno Heart Hospital	15 East Audubon Drive		Fresno	CA	93720
Froedtert Hospital	9200 W. Wisconsin Avenue		Milwaukee	WI	53226

Frye Regional Medical Center	420 N. Center Street		Hickory	NC	28601
Gadsden Regional Medical Center	1007 Goodyear Avenue		Gadsden	AL	35903
Galichia Heart Hospital	2610 N. Woodlawn Boulevard		Wichita	KS	67220
Garden City Hospital	6245 Inkster Road		Garden City	MI	48135
Garden Grove Hospital	12601 Garden Grove Boulevard		Garden Grove	CA	92843
Gaston Memorial Hospital	2525 Court Drive		Gastonia	NC	28054
Gateway Medical CenterGateway Health System	651 Dunlap Lane		Clarksville	TN	37043
Gateway Regional Medical Center	2100 Madison Avenue		Granite City	IL	62040
Geisinger Medical Center	100 North Academy Avenue		Danville	PA	17822-2160
Geisinger Wyoming Valley Medical Center	100 North Academy Avenue		Danville	PA	17822-2160
Genesis Medical Center	1236 East Rusholme Street	Suite 190	Davenport	IA	52803-2459
Genesis Medical Center, Illini Campus	801 Illini Drive		Silvis	IL	61282
Genesys Regional Medical Center	One Genesys Parkway		Grand Blanc	MI	48439
Georgetown University Hospital	3800 Reservoir Road NW		Washington	DC	20007
Gerald Champion Reginal Medical	2669 North Scenic Drive		Alamogordo	NM	88310

Glenbrook Hospital	2100 Pfingsten Road		Evanston	IL	60026
Glendale Adventist Medical Center	1509 Wilson Terrace		Glendale	CA	91206
Glendale Memorial Hospital and Health Center	1420 S. Central Avenue		Glendale	CA	91204
Glens Falls Hospital	100 Park Street		Glens Falls	NY	12801
Glenwood Regional Medical Center	503 McMillan Road		West Monroe	LA	71291
Good Samaritan Heart Center	520 South 7th Street		Vincennes	IN	47591
Good Samaritan Hospital and Health Center	2222 Philadelphia Drive		Dayton	OH	45406
Good Samaritan Hospital	2425 Samaritan Drive	2425 Samaritan Drive	San Jose	CA	95124
Good Samaritan Hospital	605 N. 12th Street		Mount Vernon	IL	62864
Good Samaritan Hospital	3815 Highland Avenue		Downers Grove	IL	60515
Good Samaritan Hospital	375 Dixmyth Avenue		Cincinnati	OH	45220-2489
Good Samaritan Hospital	1225 Wilshire Boulevard		Los Angelos	CA	90017
Good Samaritan Hospital	10 East 31 Street		Kearney	NE	68848
Good Samaritan Hospital	255 Lafayette Avenue		Suffern	NY	10901

Good Samaritan Hospital Cardiology	1000 Montauk Highway		West Islip	NY	11795
Good Samaritan Hospital of Maryland	5601 Loch Raven Boulevard		Baltimore	MD	21239
Good Samaritan Medical Center	1309 North Flagler Drive		West Palm Beach	FL	33401
Good Samaritan Regional Medical Center	3600 NW Samaritan Drive		Corvallis	OR	97330
Good Shepherd Medical Center	700 East Marshall Avenue		Longview	TX	75601
Governor Juan F. Luis Hospital & Medical Center	4007 Estate Diamond Ruby		Christiansted	VI	00820
Graduate Hospital	1800 Lombard Street		Philadelphia	PA	19146
Grady Memorial Hospital	561 West Central Avenue		Delaware	OH	43015-1489
Grand Strand Regional Medical Center	809 82nd Parkway		Myrtle Beach	SC	29572
Grandview Medical Center	405 Grand Avenue		Dayton	OH	45405
Grant Medical Center	111 S. Grant Avenue		Columbus	OH	43215
Great Plains Regional Medical Center	Box 2339		Elk City	OK	73648
Greater Baltimore Medical Center	GBMC – Cardiac Cath Lab	6701 N. Charles Street	Towson	MD	21204

Greene Memorial Hospital	1141 N. Monroe Drive		Xenia	OH	45385
Greenview Regional Hospital	1801 Ashley Circle		Bowling Green	KY	42104
Greenville Memorial Hospital	701 Grove Road		Greenville	SC	29605
Greenwich Hospital	5 Perryridge Road		Greenwich	CT	06830
Gulf Coast Medical Center	449 W. 23rd Street		Panama City	FL	32406-5309
Gulf Coast Medical Center	1400 Highway 59		Wharton	TX	77488
Gundersen Lutheran Medical Center, Inc.	1900 South Avenue	H06-004	LaCrosse	WI	54601
Gwinnett Hospital System	1000 Medical Center Boulevard		Lawrenceville	GA	30045
Hackensack University Medical Center	30 Prospect Avenue		Hackensack	NJ	07601
Hackley Hospital General Fund	1700 Clinton Street		Muskegon	MI	49443
Hahnemann University Hospital	230 N. Broad Street		Philadelphia	PA	19102
Halifax Medical Center	303 N. Clyde Morris Boulevard		Daytona Beach	FL	32114-2732
Halifax Regional Hospital	2204 Wilborn Avenue		South Boston	VA	24592
Hamilton Medical Center	1200 Memorial Drive		Dalton	GA	30720
Hamot Medical	201 State Street		Erie	PA	16550

Center					
Hannibal Regional Hospital	6000 Hospital Drive		Hannibal	MO	63401
Harbor Hospital Center	3001 S. Hanover Street		Baltimore	MD	21225
Hardin Memorial Hospital	913 N Dixie Avenue		Elizabethtown	KY	42701
Harlingen Medical Center	5501 South Expressway 77		Harlingen	TX	78550
Harper University Hospital	3990 John R. Street		Detroit	MI	48201
Harris Methodist Fort Worth	1301 Pennsylvania Avenue		Fort Worth	TX	76104
Harris Methodist HEB	1600 Hospital Parkway		Bedford	TX	76022
Harrison Medical Center	2520 Cherry Avenue		Bremerton	WA	98310
Hartford Hospital	80 Seymour Street		Hartford	CT	06102-8000
Harton Regional Medical Center	1801 N. Jackson Street		Tullahoma	TN	37388
Havasu Regional Medical Center	101 Civic Center Lane		Lake Havasu City	AZ	86403
Hawaii Medical Center East, LLC	2230 Liliha Street		Honolulu	HI	96817
Hawaii Medical Center West	91-2141 Fort Weaver Road		Ewa Beach	HI	96706
Hays Medical Center	2220 Canterbury Road		Hays	KS	67601
Hazard ARH Regional Medical	100 Medical Center Drive		Hazard	KY	41701

Center					
Health Care Authority for Baptist Health	2105 East South Boulevard		Montgomery	AL	36116
Heart and Lung Clinic	900 East Broadway Box 5510		Bismarck	ND	58502
Heart Center of Indiana	8333 Nabb Road Suite 330	Suite 330	Indianapolis	IN	46290
Heart Hospital of Austin	3801 N. Lamar Boulevard		Austin	TX	78756
Heart Hospital of Lafayette	1105 Kaliste Saloom Road		Lafayette	LA	70508
Heart Hospital of New Mexico	504 Elm Street NE		Albuqerque	NM	87102
Heart of Florida Regional Medical Center	40100 Highway 27		Davenport	FL	33837
Heart of Lancaster Regional Medical Center	250 College Avenue		Lancaster	PA	17604
Heartland Regional Medical Center	3333 W. Deyoung Street		Marion	IL	62959
Heartland Regional Medical Center	The Heart Center – Cardiac Cath Lab	5325 Faraon Street	Saint Joseph	MO	64506-3373
Helen Ellis Memorial	1395 South Pinella Avenue		Tarpon Springs	FL	34689
Hellen Keller Hospital	1300 South Montgomery Avenue		Sheffield	AL	35660
Hemet Valley Medical Center	1117 E. Devonshire Avenue		Hemet	CA	92543

Hendersonville Medical Center	355 New Shackle Island Road		Hendersonville	TN	37075
Hendrick Medical Center	1900 Pine Street		Abilene	TX	79601
Hennepin County Medical Center	701 Park Avenue		Minneapolis	MN	55415-1829
Henrico Doctors Hospital	1602 Skipwith Road	Cardiac Cath Lab	Richmond	VA	23229
Henry Ford Hospital	2799 W. Grand Boulevard	K-14	Detroit	MI	48202
Henry Ford Macomb	15855 Nineteen Mile Road		Clinton Township	MI	48038
Henry Ford Macomb-Warren	13355 East Ten Mile Road		Warren	MI	48089
Henry Mayo Newhall Memorial Hospital	23845 McBean Parkway		Valencia	CA	91350
Henry Medical Center, Inc.	1133 Eagles Landing Parkway		Stockbridge	GA	30281
Hialeah Hospital	651 East 25th Street		Hialeah	FL	33013
High Point Regional Hospital	601 N. Elm Street		High Point	NC	27261
Highland Park Hospital	718 Glenview Avenue		Highland Park	IL	60035
Highlands Regional Medical Center	3600 S. Highlands Avenue		Sebring	FL	33870
Hillcrest Baptist Medical Center	3000 Herring Avenue		Waco	TX	76708
Hillcrest Hospital	6780 Mayfield Road		Mayfield Heights	OH	44124

Hillcrest Medical Center	1120 S. Utica Avenue	3 West	Tulsa	OK	74104
Hilton Head Regional Medical Center	25 Hospital Center Boulevard		Hilton Head	SC	29925
Hinsdale Hospital	120 N. Oak Street		Hinsdale	IL	60521
HMA-Physician Management Region 25 Disb. Acct. (Physician's Regional)	6101 Pine Ridge Road		Naples	FL	34119
Hoag Memorial Hospital Presbyterian	One Hoag Drive		Newport Beach	CA	92658
Holland Community Hospital	602 Michigan Avenue		Holland	MI	49423
Hollywood Medical Center	3600 Washington Street		Hollywood	FL	33021
Holmes Regional Medical Center	1355 South Hickory Street Suite 203		Melbourne	FL	32901
Holy Cross Hospital	4725 N. Federal Highway		FT. Lauderdale	FL	33308
Holy Cross Hospital	2701 W. 68th Street		Chicago	IL	60629
Holy Cross Hospital Medical Library	1500 Forest Glen Road		Silver Spring	MD	20910
Holy Spirit Health System	503 N 21st Street	Heart Center Admin.	Camp Hill	PA	17011-2204
Hospital Auxilio Mutuo de Puerto Rico	PO Box 191277		San Juan	PR	00919-1227
Hospital of St. Raphael	Cardiac Cath Lab, 1450 Chapel Street		New Haven	CT	06511

Hospital of the University of Pennsylvania	9011 E. Gates 3400 Spruce Street		Philadelphia	PA	19104
Houston Northwest Medical Center Accounts Payable	710 FM 1960 Road West		Houston	TX	77090
Howard County General Hospital	5755 Cedar Lane		Columbia	MD	21044
Howard Regional Health System	3500 South LaFountain Street		Kokomo	IN	46904-9011
Howard University Hospital	2041 Georgia Avenue NW		Washington	DC	20060
Huguley Memorial Medical Center	11801 S. Freeway		Ft. Worth	TX	76115
Huntington Hospital	100 W. California Boulevard		Pasadena	CA	91109
Huntington Hospital	270 Park Avenue		Huntington	NY	11743
Huntsville Hospital	101 Sivley Road		Huntsville	AL	35801
Hutchinson Hospital	1701 E. 23rd Avenue		Hutchinson	KS	67502
Iberia Medical Center	2315 East Main Street		New Iberia	LA	70560
Immanuel-St. Joseph's Hospital	1025 Marsh Street		Mankato	MN	56001
Indian River Medical Center	1000 36th Street		Vero Beach	FL	32960
Indiana Heart Institute	8333 Naab Rd	Suite 330	Indianapolis	IN	46260
Indiana Regional Medical Center Cardiology Department	835 Hospital Road		Indiana	PA	15701

Ingalls Hospital	One Ingalls Drive		Harvey	IL	60426
Ingham Regional Medical Center	401 W. Greenlawn Avenue		Lansing	MI	48910
Innovis Health	3000 32nd Avenue SW		Fargo	ND	58104
Inova Alexandria Hospital	3289 Woodburn Road		Falls Church	VA	22042
Inova Fairfax Hospital/Inova Heart & Vascular Institute	3300 Gallows Road		Falls Church	VA	22042
Inova Loudoun Hospital	3289 Woodburn Road	Suite 235	Falls Church	VA	22042
Integris Baptist Medical Center	3433 NW 56th Street, Suite 805		Oklahoma City	OK	73112
Integris Health	600 S. Monroe Street		Enid	OK	73701
Integris Southwest Medical Center	4401 South Western Avenue		Oklahoma City	OK	73109
Intermountain Medical Center	PO Box 577000		Murray	UT	84157-7000
Iowa Lutheran Hospital	700 E. University Avenue		Des Moines	IA	50316
Iowa Methodist Medical Center	700 E. University Avenue		Des Moines	IA	50316
Iredell Memorial Hospital	557 Brookdale Drive		Statesville	NC	28687
Iroquois Memorial Hospital	200 Fairman Avenue		Watseka	IL	60970
Irvine Regional Hospital and Medical	16200 Sand Canyon Avenue		Irvine	CA	92618-3701

Center					
Jackson Hospital and Clinic	1725 Pine Street		Montgomery	AL	36106
Jackson Madison General Hospital	708 West Forrest Avenue		Jackson	TN	38301
Jackson Memorial Hospital	1611 N.W. 12th Avenue		Miami	FL	33136
Jacobi Medical Center	1400 Pelham Parkway		Bronx	NY	10461-1101
Jamaica Hospital Medical Center	8900 VanWyck Expressway		Jamaica	NY	11418
Jane Phillips Memorial Medical Center	3500 Frank Phillips Boulevard		Bartlesville	OK	74006
Jeanes Hospital	7600 Central Avenue		Philadelphia	PA	19111
Jeff Anderson Regional Medical Center	2124 14th Street		Meridian	MS	39301
Jefferson Memorial Hospital	PO BOX 350		Crystal City	MO	63019
Jefferson Regional Medical Center	1600 West 40th Avenue		Pine Bluff	AR	71603
Jefferson Regional Medical Center	PO Box 18119 565 Coal Valley Road		Pittsburgh	PA	15236-0119
Jennie Edmundson Memorial Hospital	933 E. Pierce Street		Council Bluffs	IA	51503
Jersey City Medical Center	355 Grand Street		Neptune	NJ	07307

Jersey Shore University Medical Center	1945 State Route 33		Neptune	NJ	07753
Jewish Hospital	4777 East Galbraith Road		Cincinnati	OH	45236
Jewish Hospital	200 Abraham Flexner Way		Louisville	KY	40202
JFK Medical Center	5631 Glencrest Boulevard		Tampa	FL	33625-1008
John C. Lincoln Hospital - Deer Valley	19829 N. 27th Ave.		Phoenix	AZ	85027-4002
John C. Lincoln Hospital - North Mountain	250 E. Dunlap Avenue		Phoenix	AZ	85020-2871
John F. Kennedy Memorial Hospital	47-111 Monroe Street		Indio	CA	92201
John Muir Medical Center – Concord Campus	1601 Ygnacio Valley Road		Walnut Creek	CA	94550
John Muir - Walnut Creek	1601 Ygnacio Valley Road		Walnut Creek	CA	94550
Johns Hopkins Bayview Medical Center	4940 Eastern Avenue		Baltimore	MD	21224
Johns Hopkins Hospital	600 N. Wolfe Street		Baltimore	MD	21287
Johnson City Medical Center Hosp	400 N State of Franklin		Johnson City	TN	37604
Jordan Valley Hospital	3580 W. 9000 S		West Jordan	UT	84088

Kadlec Medical Center	888 Swift Boulevard		Richland	WA	99352
Kaiser Foundation Hospital	1526 Edgemont Street		Los Angeles	CA	90027
Kaiser Foundation Hospital	6600 Bruceville Road		Sacramento	CA	95823
Kaiser Permanente – Moanalua Medical Center	3288 Moanalua Road		Honolulu	HI	96819
Kaiser Permanente – Panorama City	13652 Cantara Street		Panoram City	CA	91402
Kaiser Permanente Medical Center	2350 Geary Boulevard	1st Floor – CV Surgery	San Francisco	CA	94115
Kaiser Permanente Medical Center – Santa Clara	710 Lawrence Expressway		Santa Clara	CA	95051
Kaiser Permanente Medical Center Health Sciences Library	9400 E. Rosecrans Avenue		Bellflower	CA	90706
Kaiser Permanente Walnut Creek	4647 Zion Avenue		Bellflower	CA	92120
Kaiser Sunnyside Medical Center	10180 SE Sunnyside Road		Clackamas	OR	97015
Kansas Heart Hospital	3601 N Webb Road		Wichita	KS	67226
Kansas Heart Hospital	3601 N Webb Road		Wichita	KS	67226

Kansas Medical Center	1124 West 21st Street		Andover	KS	67002
Kansas University Hospital Authority	3901 Rainbow Boulevard		Kansas City	KS	66160
Kapi'olani Medical Center Pali Momi	98-1079 Moanalua Road		Aiea	HI	96701
Katherine Shaw Bethea Hospital	403 E. First Street		Dixon	IL	61021
Kaweah Delta Hospital District	Kaweah Delta Hospital District	400 W. Mineral King Avenue	Visalia	CA	93291
Kendall Regional Medical Center	5631 Glencrest Boulevard		Tampa	FL	33625-1008
Kershaw County Medical Center	1315 Roberts Street		Camden	SC	29020
Kettering Medical Center	3535 Southern Boulevard		Kettering	OH	45429
Kingman Regional Medical Center	3269 Stockton Hill Road		Kingman	AZ	86401
Kings Daughters Hospital	1901 Southwest H.K. Dodgen Loop		Temple	TX	76502
Kings Daughters Medical Center	2201 Lexington Avenue		Ashland	KY	41101
Kingwood Medical Center	22999 Highway 59 N		Kingwood	TX	77339
Knox Community Hospital	1330 Coshocton Road		Mount Vernon	OH	43050
Kootenai Medical Center	2003 Lincoln Way		Coeur d' Alene	ID	83814
Kuakini Medical	347 North Kuakini Street	Cardiac Cath	Honolulu	HI	96817

Center		Lab			
Labette Health	1920 S. US Highway 59 PO BOX 956		Parson	KS	67357
Lafayette General Medical Center	1214 Coolidge Avenue		Lafayette	LA	70505
LaGrange Memorial Hospital	120 North Oak Street		Hinsdale	IL	60521
Lahey Clinic	41 Mall Road		Burlington	MA	01805
Lake Charles Memorial Hospital	1701 Oak Park Boulevard		Lake Charles	LA	70601
Lake Hospital System	36000 Euclid Avenue		Willoughby	OH	44094
Lake Regional Health System	54 Hospital Drive		Osage Beach	MO	65065
Lakeland Hospital	1234 Napier Avenue		Saint Joseph	MI	49085-2112
Lakeland Regional Medical Center	1324 Lakeland Hills Boulevard		Lakeland	FL	33804
Lakeside Hospital	6901 N. 72nd Street Suite 3300		Omaha	NE	68122
Lakeview Regional Medical Center	95 East Fairway Drive		Covington	LA	70433-7500
Lakeway Regional Hospital	726 McFarland Street		Morristown	TN	37814
Lakewood Hospital	14519 Detroit Avenue		Lakewood	OH	44107
Lakewood Ranch Medical Center	8330 Lakewood Ranch Boulevard		Bradenton	FL	34202
Lakewood Regional Medical Center	3700 East South Street		Lakewood	CA	90712
Lancaster Community Hosp	43830 North 10th Sreet West		Lancaster	CA	93534

Lancaster General Hospital	555 N. Duke Street PO Box 3555		Lancaster	PA	17604-3555
Lancaster Regional Medical Center	250 College Avenue		Lancaster	PA	17604
Landmark Medical Center	115 Cass Avenue		Woonsocket	RI	02895
Lane Regional Medical Center	6300 Main Street		Zachary	LA	70791
Lankenau Hospital	Suite 557 Lankenau MOB East	100 Lancaster Avenue	Wynnewood	PA	19096
La Porte Hospital	1007 Lincolnway		La Porte	IN	46352
Laredo Medical Center	1720 Bustamante Street		Laredo	TX	78044
Largo Medical Center	201 14th Street SW		Largo	FL	33770
Las Colinas Medical Center	6800 North MacArthur Boulevard		Irving	TX	75039
Las Palmas Medical Center	1801 N. Oregon Street		El Paso	TX	79902
Lawnwood Medical Center	1700 S. 23rd Street		Fort Pierce	FL	34950
Lawrence & Memorial Hospital	365 Montauk Avenue		New London	CT	06375
Lawrence Hospital	55 Palmer Avenue		Broxville	NY	10708-3491
Lee Memorial Health System-Cape Coral Hospital	276 Cleveland Avenue		Fort Myers	FL	33901
Lee Memorial Health System-Health Park Med Center	276 Cleveland Avenue		Fort Myers	FL	33901

Lee's Summit Medical Center	2100 SE Blue Parkway		Lee's Summit	MO	64063
Leesburg Regional Medical Center	600 East Dixie Avenue		Leesburg	FL	34748
Legacy Emanuel Hospital	1919 NW Lovejoy Street		Portland	OR	97209
Legacy Good Samaritan Hospital	1919 NW Lovejoy Street		Portland	OR	97209
Legacy Meridian Park Hospital	1919 NW Lovejoy Street		Portland	OR	97209
Legacy Salmon Creek Hospital	1919 NW Lovejoy Street		Portland	OR	97209
Lehigh Regional Medical Center	1500 Lee Boulevard		Lehigh Acres	FL	33963
Lehigh Valley Hospital	1200 S. Cedar Crest Boulevard	Jaindl Pavilion 1st Floor	Allentown	PA	18103
Lehigh Valley Hospital – Muhlenberg	2545 Schoenersville Road	Invasive Cardiology 3rd Floor	Bethlehem	PA	18017-7330
Lenox Hill Heart and Vascular Institute of New York	100 East 77th Street		New York	NY	10021
Lewis Gale Medical Center	1900 Electric Road		Salem	VA	24153
Lexington Medical Center	2720 Sunset Boulevard		West Columbia	SC	29169
Licking Memorial Hospital	1320 W. Main Street		Newark	OH	43055
Lima Memorial	1001 Bellefontaine Avenue		Lima	OH	45804

Hospital					
Lincoln Park Hospital	550 W. Webster Avenue		Chicago	IL	60614
Little Company of Mary Hospital	4101 Torrance Boulevard		Torrance	CA	90503
Little Company of Mary Hospital	2800 W. 95th Street		Evergreen Park	IL	60805
Logan General Hospital, LLC	20 Hospital Drive		Logan	WV	25601
Loma Linda University Medical Center	11234 Anderson Street Room 2431		Loma Linda	CA	92354
Long Beach Memorial Medical Center	2801 Atlantic Avenue		Long Beach	CA	90806
Long Island College Hospital	339 Hicks Street		Brooklyn	NY	11201
Long Island Jewish Medical Center	270-05 76th Avenue		New Hyde Park	NY	11040
Longmont United Hospital	1950 Moutain View Avenue		Longmont	CO	80501
Longview Regional Medical Center	PO Box 14000		Longview	TX	75607
Los Alamitos Medical Center	3751 Katella Avenue		Los Alamitos	CA	90720
Los Robles Hospital & Medical Center	215 W. Janss Road		Thousand Oaks	CA	91360-1899
Louisiana Medical Center and Heart Hospital	64030 Louisiana Highway 434		Lacombe	LA	70445
Lourdes Hospital	1530 Lone Oak Road		Paducah	KY	42003

Lovelace Medical Center	601 Dr. Martin Luther King, Jr. Ave NE		Albuquerque	NM	87106
Lowell General Hospital	295 Varnum Avenue		Lowell	MA	01854
Lower Bucks Hospital	501 Bath Road		Bristol	PA	19007
Lower Keys Medical Center	5900 College Road		Key West	FL	33040
Loyola University Medical Center	2160 S. First Avenue	Rm. 1318 Bldg. 104 Att: Mike	Maywood	IL	60153
LSUHSC-Cath Lab	1501 Kings Highway		Shreveport	LA	71130
Lubbock Heart Hospital	4810 N. Loop 289		Lubbock	LA	79416
Luther Hospital	1221 Whipple Street		Eau Claire	WI	54703
Lutheran Hospital of Indiana	7950 W. Jefferson Boulevard		Fort Wayne	IN	46804
Lutheran Medical Center	150 55th Street		Brooklyn	NY	11220
Lynchburg General Hospital	1901 Tate Springs Road		Lynchburg	VA	24501-1167
MacNeal Hospital	3249 S. Oak Park Avenue		Berwyn	IL	60402
Magnolia Regional Health Center	611 Alcorn Drive		Corinth	MS	38834
Maimonides Medical Center Division of Cardiology	Division of Cardiology	4802 10th Avenue	Brooklyn	NY	11219
Maine Medical Center	22 Bramhall Street		Portland	ME	04102

Manatee Memorial Hospital	206 Second Street East		Bradenton	FL	34208
Marian Medical Center	1400 East Church Street		Santa Maria	CA	93454
Maricopa Integrated Health System	2601 E. Roosevelt Street		Phoenix	AZ	85008
Marin General Hospital	250 Bon Air Road		Greenbrae	CA	94904
Marion General Hospital	441 N. Wabash Avenue		Marion	IN	46952
Marion General Hospital	1000 McKinley Park Drive		Marion	OH	43302-6397
Marquette General Hospital System	580 W. College Avenue		Marquette	MI	49855
Marshall University School of Medicine	420 West Magnetic Street		Huntington	WV	25701
Martha Jefferson Hospital	459 Locust Avenue		Charlottesville	VA	22902
Martin Memorial Medical Center	PO Box 9010		Stuart	FL	34995
Mary Black Hospital	1700 Skylyn Drive		Spatanburg	SC	29307
Mary Greeley Medical Center	1111 Duff Avenue		Ames	IA	50010
Mary Hitchcock Memorial Hospital	One Medical Center Drive		Lebanon	NH	03756
Mary Rutan Hospital	205 Palmer Avenue		Bellefontaine	OH	43311
Mary Washington Hospital	1001 Sam Perry Boulevard		Fredericksburg	VA	22401

Massachusetts General Hospital	55 Fruit Street		Boston	MA	02114
Mat-Su Regional Medical Center	2500 S. Woodworth Loop		Palmer	AR	99645
Maui Memorial Medical Center	221 Mahalani Street		Wailuku	HI	96793
Maury Regional Hospital	1224 Trotwood Avenue		Columbia	TN	38401
Mayo Clinic	4201 Belfort Road		Jacksonville	FL	32216
Mayo Clinic Arizona	5777 E. Mayo Boulevard		Phoenix	AZ	85054
Mayo Clinic – St. Mary's Hospital	1216 2nd Street SW		Rochester	MN	55902
McAlester Regional Health Center	1 Clark Bass Boulevard		McAlester	OK	74501
McAllen Medical Center	301 W. Expressway 83		McAllen	TX	78503
MCG Health Inc.	1120 15th Street BBR-8521		Augusta	GA	30912
McKay-Dee Hospital Center	4401 Harrison Boulevard		Ogden	UT	84405
McKee Medical Center	2000 Boise Avenue		Loveland	CO	80538
McLeod Regional Medical Center	555 E. Chaves Street		Florence	SC	29501
Mease Countryside Hospital	3231 Mccullen Booth Road		Safety Harbor	FL	34695
Mease Dunedin Hospital	207 Jeffords Street MS 142		Clearwater	FL	33756

Med Central Mansfield	335 Glessner Avenue		Mansfield	OH	44903
Medcenter One	300 N. 7th Street		Bismarck	ND	58501
Medical Center at Bowling Green	250 Park Street		Bowling Green	KY	42101
Medical Center Hospital	500 W. 4th Street		Odessa	TX	79760
Medical Center of Arlington	3301 Matlock Road		Arlington	TX	76015
Medical Center of Aurora	1501 S. Potomac Street		Aurora	CO	80012
Medical Centerof Central Georgia	777 Hemlock Street HB 53		Macon	GA	31208
Medical Center of Louisiana at New Orleans	1541 Tulane Avenue Room #203 Butterworth Building		New Orleans	LA	70112
Medical Center of McKinney	4500 Medical Center Drive		McKinney	TX	75069
Medical Center of Plano	3901 W. 15th Street		Plano	TX	75075-7738
Medical Center of South Arkansas, LLC	700 West Grove Street		El Dorado	AR	71730
Medical Center of Southeastern Oklahoma	1800 University Boulevard		Durant	OK	74701
Medical Center of the Rockies	2500 Rocky Mountain Avenue		Loveland	CO	80538
Medical City Dallas Hospital	7777 Forest Lane		Dallas	TX	75230

Medical University of South Carolina	326 Calhoun Street Suite 239		Charleston	SC	29401
Memorial Health System	1400 E. Boulder Street		Colorado Springs	CO	80909-5599
Memorial Health University Medical Center	Cardiac Cath Lab Memorial Health University Medical Center	4700 Waters Avenue	Savannah	GA	31404
Memorial Hermann Hospital	6411 Fannin Street		Houston	TX	77030
Memorial Hermann HVI South West	7787 Southwest Freeway		Houston	TX	77074
Memorial Hermann Memorial City Hospital	921 Gessner Road		Houston	TX	77024
Memorial Hermann Northeast	18951 Memorial North		Humble	TX	77338
Memorial Hermann Northwest Hospital	1635 North Loop West		Houston	TX	77008
Memorial Hermann The Woodlands Hospital	9250 Pinecroft Drive		Spring	TX	77380
Memorial Hospital	800 West 9th Street		Jasper	IN	47546
Memorial Hospital	2525 Desales Avenue		Chattanooga	TN	37404-1102
Memorial Hospital at Gulfport	4500 13th Street	PO Box 1810	Gulfport	MS	39502
Memorial Hospital Carbondale	405 W. Jackson Street		Carbondale	IL	65902
Memorial Hospital Miramar	1901 SW 172 Avenue		Miramar	FL	33029

Memorial Hospital of Martinsville	320 Hospital Drive		Martinsville	VA	24112
Memorial Hospital of Rhode Island Brown University	111 Brewster Street		Pawtucket	RI	02860
Memorial Hospital of South Bend	615 N. Michigan Street		South Bend	IN	46601-1033
Memorial Hospital of Tampa	2901 W. Swann Avenue		Tampa	FL	33609
Memorial Hospital Pembroke/ South Broward Hospital	7800 Sheridan Street		Pembroke Pines	FL	33024
Memorial Hospital West/South Broward Hospital District	703 North Flamingo Road		Pembroke Pines	FL	33028
Memorial Hospital – Jacksonville	3625 University Boulevard South		Jacksonville	FL	32215
Memorial Hospitals Association	1700 Coffee Road		Modesto	CA	95355
Memorial Medical Center	701 N. First Street		Springfield	IL	62781
Memorial Medical Center	2450 S. Telshor Boulevard		Las Cruces	NM	88011
Memorial Medical Center	1086 Franklin Street		Johnstown	PA	15905-4398
Memorial Regional Hospital/South Broward Hospital	3501 Johnson Street		Hollywood	FL	33021

Memphis Hospital (Germantown Campus)	1265 Union Avenue		Memphis	TN	38104-3499
Memphis Hospital (North Campus)	1265 Union Avenue		Memphis	TN	38104-3499
Memphis Hospital (University Campus)	1265 Union Avenue		Memphis	TN	38104-3499
Menifee Valley Medical Center	28400 McCell Boulevard		Sun City	CA	92585
Menorah Medical Center	5721 West 119th Street		Overland Park	KS	66209
Mercy Fitzgerald Hospital	1500 Lansdowne Avenue		Darby	PA	19023
Mercy General Health Partners	1500 E. Sherman Boulevard		Muskegon	MI	49444
Mercy General Hospital – Sacramento	3939 J Street	Suite 215	Sacramento	CA	95819
Mercy Gilbert Medical Center	3555 South Val Vista Drive	Attn.: Cardiac Cath Lab	Gilbert	AZ	85296
Mercy Health System of Northwestern Arkansas	2710 Rife Medical Lane		Rogers	AR	72756
Mercy Hospital	144 State Street		Portland	ME	04101
Mercy Hospital	2925 Chicago Avenue		Minneapolis	MN	55407

Mercy Hospital – Scranton	746 Jefferson Avenue		Scranton	PA	18501
Mercy Hospital & Medical Center	2525 South Michigan Avenue		Chicago	IL	60616
Mercy Hospital Attn.: Accounts Payable	3663 South Miami Avenue		Miami	FL	33133
Mercy Hospital of Buffalo	515 Abbott Road	Marion Building Suite 306	Buffalo	NY	14220
Mercy Hospital Attn: A/P	271 Carew Street PO Box 9012		Springfield	MA	01102
Mercy Iowa City	500 East Market Street		Iowa City	IA	52245
Mercy Medical Center	2700 Steward Parkway		Roseburg	OR	97470
Mercy Medical Center	801 5th Street		Sioux City	IA	51101
Mercy Medical Center	1111 6th Avenue		Des Moines	IA	51101
Mercy Medical Center	1320 Mercy Drive	Cardiology Management and Support 3C	Canton	OH	44708
Mercy Medical Center	301 St. Paul Place		Baltimore	MD	21202
Mercy Medical Center	2900 W. 9th Avenue	Suite 107	Oshkosh	WI	54904
Mercy Medical Center	701 10th Street SE		Cedar Rapids	IA	52403
Mercy Medical Center	1000 North Village Ave		Rockville Centre	NY	11571
Mercy Medical Center Merced	301 E. 13th Street		Merced	CA	95340
Mercy Medical Center Redding	2175 Rosaline Avenue;	PO Box 496009	Redding	CA	96049-6009

Mercy Medical Center – North Iowa	1000 4th Street SW		Mason City	IA	50401
Mercy Regional Health Center	1823 College Avenue		Manhattah	KS	67218
Mercy Regional Medical Center	1010 Three Springs Boulevard		Durango	CO	81301
Mercy San Juan Hospital	3941 J Street	c/o Mercy General Hospital Administration	Sacramento	CA	95819
MeritCare Hospital	MeritCare Hospital/Heart Services Data/Research		Fargo	ND	58122
Meriter Hospital	202 South Park Street	10 Tower – Heart Center	Madison	WI	53715
Methodist Health System	PO Box 655999		Dallas	TX	75203
Methodist Hospital	7700 Floyd Curl Drive		San Antonio	TX	78229
Methodist Hospital	6500 Excelsior Boulevard 2nd Floor HVC		St. Louis Park	MN	55426
Methodist Hospital of South CA	300 W Huntington Drive		Arcadia	CA	91007-3402
Methodist Hospital Southlake Campus	8701 Broadway		Merrillville	IN	46410-7035
Methodist Medical Center	280 Fort Sanders Boulevard Building 4, Suite 218		Knoxville	TN	37922
Methodist Medical Center of Illinois	221 NE Glen Oak Avenue		Peoria	IL	61636

Methodist Speciality and Transplant Hospital	7700 Floyd Curl Drive		San Antonio	TX	78229
Methodist Sugar Land Hospital	16655 Southwest Freeway		Sugar Land	TX	77479
Methodist Willowbrook Hospital	18220 Tomball Parkway		Houston	TX	77070
Metro Health Hospital	5900 Byron Center Road		Wyoming	MI	49519
MetroHealth Medical Center	2500 MetroHealth Drive		Cleveland	OH	44109
Metroplex Hospital	2201 S. Clear Creek Road		Killeen	TN	76549
MetroSouth Medical Center	12935 Gregory Street		Blue Island	IL	60406-2470
MetroWest Medical Center	115 Lincoln Street	Cardiac Cath Lab	Framingham	MA	01702-6327
Miami Valley Hospital	One Wyoming Street		Dayton	OH	45409
Michael Reese Hospital	2929 S. Ellis Avenue		Chicago	IL	60616
Midland Memorial Hospital	2200 W. Illinois Avenue c/o Heart Institute		Midland	TX	79701
Midlands Community Hospital	6901 N. 72nd Street		Omaha	NE	68122
MidMichigan Medical Center-Midland	4005 Orchard Drive		Midland	MI	48670
Midwest Regional Medical Center	2825 Parklawn Drive		Midwest City	OK	73110
Milford Regional Medical Center	14 Prospect Street		Milford	MA	01568

Millard Fillmore Hospital	100 High Street		Buffalo	NY	14203
Millard Filmore Suburban	100 High Street		Buffalo	Ny	14203
Mills-Peninsula Hospital	1783 Elcamino Real		Burlingame	CA	94010
Mission Hospital Regional Medical Center	27700 Medical Center Road		Mission Viejo	CA	92691-6426
Mission Hospitals, Inc.	509 Biltmore Avenue		Asheville	NC	28801-4690
Mission Regional Medical Center	900 S. Bryan Road		Mission	TX	78572
Mississippi Baptist Medical Center	1225 N State Street		Jackson	MS	39202-2097
Missouri Baptist Medical Center	3015 N. Ballas Road	3105 North Ballas Road	Saint Louis	MO	63131-2374
Moberly Regional Medical Center	1515 Union Avenue		Moberly	MO	65270
Mobile Infirmary Medical Center	5 Mobile Infirmary Circle		Mobile	AL	36607
Monongalia Genera; Hospital	1200 JD Anderson Drive		Morgantown	WV	26505
Monroe Hospital	4011 South Medical Park Boulevard		Bloomington	IN	47403
Montefiore Medical Center	111 East 210th Street		Bronx	NY	10467-2490
Montgomery General Hospital	18101 Prince Philip Drive		Olney	MD	20832
Morris Hospital	150 West High Street		Morris	IL	60450

Morristown Memorial Hospital	100 Madison Avenue		Morristown	NJ	07962
Morton Plant Hospital	207 Jeffords Street		Clearwater	FL	33756
Morton Plant North Bay Hospital	6600 Madison Street		New Port Richey	FL	34652
Moses Cone Health System	1200 N. Elm Street		Greensboro	NC	27401
Mother Frances Hospital	800 E.Dawson Street		Tyler	TX	75701
Mount Auburn Hospital	330 Mount Auburn Street	South 2 – Administration	Cambridge	MA	02138
Mount Carmel East	6150 East Broad Street	Office EB 148	Columbus	OH	42313
Mount Carmel St. Ann's Hospital	6150 East Broad Street	Office EB 148	Columbus	OH	42313
Mount Carmel West	6150 East Broad Street	Office EB 148	Columbus	OH	42313
Mount Clemens Regional Medical Center	1000 Harrington Street		Mount Clemens	MI	48043-2992
Mount Sinai Medical Center	4300 Alton Road		Miami Beach	FL	33140
Mountainview Hospital	3100 N. Tenaya Way		Las Vegas	NV	89128
Munroe Regional Medical Center	1500 SW 1st Avenue PO Box 6000		Ocala	FL	34478
Munson Medical Center	1105 Sixth Street		Traverse City	MI	49684-2386

Muskogee Regional Medical Center	300 Rockefeller Drive		Muskogee	OK	74401
Nacogdoches Medical Center	4920 NE Stallings Drive		Nacogdoches	TX	75965
Naples Community Hospital	350 7th Street South		Naples	FL	34102
Natchez Regional Medical Center	54 Sgt. Prentiss Drive		Natchez	MS	39120
NEA Baptist Memorial Hospital	3024 Stadium Boulevard		Jonesboro	AR	72401
Nebraska Heart Hospital	7500 South 91st Street		Lincoln	NE	68526
Nebraska Methodist Hospital	8303 Dodge Street		Omaha	NE	68114
New Hanover Regional Medical Center	2131 S. 17th Street		Wilmington	NC	28402
New Milford Hospital	21 Elm Street		New Milford	CT	06776
New York Community Hospital	2525 Kings Highway		Brooklyn	NY	11229
New York Hospital Medical Center of Queens Health Education Library	5645 Main Street	Floor 1	Flushing	NY	11355
New York Methodist Hospital	506 6th Street Brooklyn		New York City	NY	11215
New York Presbyterian Hospital	6220West 168th Street	PH-2	New York City	NY	10032

Newark Beth Israel Medical Center	201 Lyons Avenue at Osborne Terrace		Newark	NJ	07112
Nicholas H. Noyes Memorial Hospital	111 Clara Barton Street		Dansville	NY	14437
NIX Healthcare System	414 Navarro Street		San Antonio	TX	78205
Norman Regional Health System	PO Box 1308		Norman	OK	73070-1308
North Austin Medical Center	12221 MoPac Expressway North		Austin	TX	78758
North Bay Medical Center	1200 B. Gale Wilson Boulevard		Fairfield	CA	94533
North Carolina Baptist Hospital	Medical Center Boulevard		Winston-Salem	NC	27157
North Central Baptist Hospital	730 Main Avenue	Suite 409	San Antonio	TX	78205
North Colorado Medical Center	1801 16th Street		Greeley	CO	80631
North Cypress Medical Center	21214 Northwest Freeway		Cypress	TX	77429
North Florida Regional Medical Center	6500 Newberry Road		Gainesville	FL	32605
North Hills Hospital	4401 Booth Calloway Road		North Richland Hills	TX	76180
North Kansas City Hospital	2800 Clay Edward Drive		North Kansas City	MO	64116
North Memorial Medical Center	3300 Oakdale Avenue, N		Robbinsdale	MN	55422

North Mississippi Medical Center	830 S. Gloster Street		Tupelo	MS	38801
North Oaks Medical Center	15790 Paul Vega MD Drive		Hammond	LA	70403
North Ridge Medical Center	5757 N. Dixie Highway		Fort Lauderdale	FL	33334
North Shore Medical Center	1100 NW 95th Street		Miami	FL	33150
North Shore Medical Center – Salem Hospital	81 Highland Avenue	Davenport 5	Salem	MA	01970
North Shore University Hospital	300 Community Drive		Manhasset	NY	11030
North Vista Hospital	1409 E. Lake Mead Boulevard		North Las vegas	NV	89030
Northeast Alabama Regional Medical Center	PO Box 2208	400 East 10th Street	Anniston	AL	36202
Northeast Baptist Hospital	730 Main Street	Suite 409	San Antonio	TX	78205
Northeast Georgia Medical Center	743 Spring Street		Gainesville	GA	30501
NorthEast Medical Center	920 Church Street North		Concord	NC	28025
Northeast Methodist Hospital	12412 Judson Road		Live Oak	TX	78233
Northern Illinois Medical Center	4201 Medical Center Drive		McHenry	IL	60050
Northern Michigan Regional Hospital	416 Connable Avenue		Petoskey	MI	49770

Northlake Medical Center	1455 Montreal Road		Tucker	GA	30084
Northridge Hospital Medical Center	18300 Roscoe Avenue		Northridge	CA	91325
Northshore Regional Medical Center	100 Medical Center Drive		Slidell	LA	70461
Northside Hospital	1000 Johnson Ferry Road		Atlanta	GA	30342
Northside Hospital	6000 49th Street, N		Pinellas Park	FL	33709
Northside Hospital – Forsyth	1200 Northside Forsyth Drive		Cumming	GA	30041
Northwest Community Hospital	800 W. Central Road		Arlington Heights	IL	60005
Northwest Hospital	1550 North 115th Street		Seattle	WA	98113
Northwest Hospital Center	5401 Old Court Road		Randallstown	MD	21133
Northwest Medical Center	2801 N. State Road 7		Margate	FL	33063
Northwest Medical Center	Northwest Medical Center	6200 N. La Cholla Boulevard	Tucson	AZ	85741
Northwest Medical Center – Bentonville	3000 Medical Center Parkway		Bentonville	AR	72712
Northwest Arkansas Hospitals LLC, dba NMC	609 West Maple Street		Springdale	AR	72764
Northwest Mississippi Regional Medical Center	1970 Hospital Drive		Clarksdale	MS	38614

Northwest Texas Healthcare System	3501 Soncy Road	Suite 118	Amarillo	TX	79119
Northwestern Memorial Hospital	676 N. St. Clair Street, Suite 1700		Chicago	IL	60611
Norton Audubon	PO Box 35070		Louisville	KY	40232
Norton Hospital	PO Box 35070		Louisville	KY	40232
Norwalk Hospital	24 Stevens Street		Norwalk	CT	06856
NYU Medical Center	560 First Avenue		New York	NY	10016
Oak Hill Hospital	11375 Cortez Boulevard		Brooksville	FL	34613
Oakwood Hospital & Medical Center	18101 Oakwood Boulevard Suite 124		Dearborn	MI	48124
Obici Hospital	2800 Godwin Boulevard		Suffolk	VA	23434
Ocala Regional Mecical Center	1431 SW First Avenue		Ocala	FL	34474
Ocean Springs Hospital	3109 Bienville Boulevard		Ocean Springs	MS	39564
Ochsner Bapatist Medical Center Ochsner Health System	2700 Napoleon Avenue		New Orleans	LA	70115
Ochsner Medical Center - Baton Rouge	17000 Medical Center Drive		Baton Rouge	LA	70816
Ochsner Medical Center – West Bank	2500 Belle Chasse Highway		Gretna	LA	70056

Ochsner Medical Center – Kenner (Kenner Regional Medical Center)	180 West Esplanade Avenue		Kenner	LA	70065
Ochsner Medical Foundation	1514 Jefferson Highway		New Orleans	LA	70121
Oconee Regional Medical Center	812 N. Cobb Street		Milledgeville	GA	31061
O'Connor Hospital	2105 Forest Avenue		San Jose	CA	95128
Odessa Regional Hospital	520 East Sixth Street		Odessa	TX	79760
Ogden Regional Medical Center	5475 South 500 East		Ogden	UT	84403
Ohio State University Medical Center	410 W. 10th Avenue	142 Doan Hall	Columbus	OH	43210-1228
Ohio Valley Medical Center	2000 Eoff Street		Wheeling	WV	26003
Oklahoma Heart Hospital	4050 W. Memorial Road		Oklahoma City	OK	73120
Oklahoma State University Medical Center	744 W. 9th Street		Tulsa	OK	74127
Olathe Medical Center	20333 W. 151st Street		Olathe	KS	66061-7211
Opelousas General Health System	539 E. Prudhomme Street		Opelousas	LA	70570
Orange Coast Memorial Medical	9920 Talbert Avenue		Fountain Valley	CA	92708

Center					
Orange Regional Medical Center	60 Prospect Avenue		Middletown	NY	10940
Oregon Health & Science University	3181 SW Sam Jackson Road		Portland	OR	97239
Orlando Regional Medical Center	1414 Kuhl Avenue		Orlando	FL	32806
Osceola Regional Medical Center	700 W. Oak Street		Kissimmee	FL	34745
OSF Saint Anthony Medical Center	5666 East State Street		Rockford	IL	61108
OSF Saint Joseph Medical Center	2200 E. Washington Street		Bloomington	IL	61701
OSF Saint Francis Medical Center	530 N.E. Glen Oak Avenue		Peoria	IL	61637
OU MEDICAL CENTER	700 NE 13th Street		Oklahoma City	OK	73104
Our Lady of Lourdes Medical Center	1600 Haddon Avenue		Camden	NJ	08103
Our Lady of Lourdes Regional Medical Center	611 Saint Landry Street PO Box 4027		Lafayette	LA	70506
Our Lady of The Lake Regional	5000 Hennessy Boulevard		Baton Rouge	LA	70808-4350
Our Lady of the Resurrection Medical Center	5645 W. Addison Street		Chicago	IL	60634
Overlake Hospital Medical Center	1035 116th Avenue NE		Bellevue	WA	98004

Overland Park Regional Medical Center/ Health Midwest	10500 Quivira Road		Overland Park	KS	66215
Owensboro Medical Health System	811 E. Parrish Avenue		Owensboro	KY	42303
Ozarks Medical Center	Ozarks Medical Center	PO Box 1100	West Plains	MO	65775
P and S Surgical Hospital	312 Grammont Street		Monroe	LA	71201
Palm Beach Gardens Medical Center	3360 Burns Road		Palm Beach Gardens	FL	33410
Palmetto General Hospital	2001 West 68th Street		Hialeah	FL	33016
Palmetto Health Heart Hospital	6 Richland Medical Park Drive	Suite 4525	Columbia	SC	29203
Palomar Medical Center	555 East Valley Parkway		Escondido	CA	92025
Palos Community Hospital	12251 S. 80th Avenue	Cardiovascular Services	Palos Heights	IL	60463-0930
Paoli Hospital	557 Lankenau MOB East	100 Lancaster Avenue	Wynnewood	PA	19096
Paradise Valley Hospital	3929 E. Bell Road		Phoenix	AZ	85032
Paradise Valley Hospital	2400 E. Fourth Street		National City	CA	91950
Paris Regional Medical Center	820 Clarksville Street		Paris	TX	75460
Park Plaza Hospital	1313 Hermann Drive		Houston	TX	77004

Parkland Health and Hospital Systems	5201Harry Hines Boulevard		Dallas	TX	75235
Parkridge Medical Center	2333 McCallie Avenue		Chattanooga	TN	37404
Parkview Hospital	2200 Randallia Drive		Fort Wayne	IN	46805
Parkview Medical Center	400 W. 16th Street		Pueblo	CO	81003
Parkway Regional Medical Center	160 NW 170th Street		North Miami	FL	33169
Parkwest Medical Center	9352 Parkwest Boulevard		Knoxville	TN	37923
Parma Community General Hospital	7007 Powers Boulevard		Parma	OH	44129
Parrish Medical Center	951 N. Washington Avenue		Titusville	FL	32796
Pasco Regional Medical Center	13000 100 Fort King Road		Dade City	FL	33525
PBI Regional Medical Center	350 Boulevard		Passaic	NJ	07055
Peace River Regional Medical	2500 Harbor Boulevard		Port Charlotte	FL	33952
Peconic Bay Medical Center	1300 Roanoake Avenue		Riverhead	NY	11901
Peninsula Regional Medical Center	100 East Carroll Street		Salisbury	MD	21801
Penn Presbyterian Medical Center	39th & Market Streets		Philadelphia	PA	19104
Penn State Hershey Medical Center	PO Box 850 H139		Hershey	PA	17033

Pennsylvania Hospital	800 Spruce Street		Philadelphia	PA	19107-6192
Penrose - St. Francis Health Services	2222 North Nevada, #220		Colorado Springs	CO	80907
Phelps County Regional Medical Center	1000 W. 10th Street		Rolla	MO	65401
Phoenix Baptist Hospital	2000 W. Bethany Home Road		Phoenix	AZ	85015
Phoenixville Hospital	140 Nutt Road		Phoenixville	PA	19460-3906
Physicians Medical Center Carraway	1600 Carraway Boulevard		Birmingham	AL	35234
Piedmont Hospital	95 Collier Road Suite 2075		Atlanta	GA	30309
Piedmont Medical Center	222 S. Herlong Avenue		Rock Hill	SC	29732
Pikesville Medical Center	911 Bypass Road		Pikesville	KY	41501
Pinnicle Health Invasive Cardiology	111 South Front Street		Harrisburg	PA	17101-2099
Pioneer Valley Hospital	3590 West 9000 South, Suite 315		West Jordan	UT	84088
Pitt County Memorial Hospital	300 Moye Boulevard		Greenville	NC	27834
Plantation General Hospital	401 NW 42nd Avenue		Plantation	FL	33317
Plaza Medical Center of Fort Worth	900 Eighth Avenue		Fort Worth	TX	76104

Pocono Medical Center	206 East Brown Street		East Stroudsburg	PA	18301
Pomona Valley Hospital Med Center	1798 N. Garey Avenue		Pomona	CA	91768
Pontiac Osteopathic Hospital	50 N. Perry Street		Pontiac	MI	48342
Poplar Bluff Regional Medical Center	2620 N. Westwood Boulevard		Poplar Bluff	MO	63901
Port Huron Hospital	1221 Pine Grove Avenue		Port Huron	MI	48060
Porter Adventist Hospital	2525 S. Downing Street		Denver	CO	80210-5817
Porter Valparaiso Hospital Campus	814 Laporte Avenue		Valparaiso	IN	46383
Portneuf Medical Center	651 Memorial Drive		Pocatello	ID	83201
Portsmouth Regional Hospital	333 Borthwick Avenue		Portsmouth	NH	03801
Prairie Lakes Healthcare	401 9th Avenue		Watertown	SD	57201
Presbyterian Healthcare Services	PO Box 26666		Albuquerque	NM	87125
Presbyterian Hospital – Denton	3000 I-35 N		Denton	TX	76201
Presbyterian Hospital – Dallas	Presbyterian Hospital	8200 Walnut Hill Lane	Dallas	TX	75231
Presbyterian Hospital – Plano	6200 West Parker Road		Plano	TX	75093-7914
Presbyterian Intercommunity Hospital	12401 Washington Boulevard		Whittier	CA	90602

Presbyterian/St.Luke's Medical Center	1719 E. 19th Avenue		Denver	CO	80218-1235
Prince George's Hospital Center	3001 Hospital Drive		Cheverly	MD	20785
Princeton Baptist Medical Center	Princeton BMC, Nursing Administration 701 Princeton Avenue, SW		Birmingham	AL	35211-1399
Proctor Hospital	5409 N. Knoxville Avenue		Peoria	IL	61614
Protestant Memorial Medical Center	4500 Memorial Drive		Belleville	IL	62226
Provena Covenant Medical Center	1400 West Park Street		Urbana	IL	61801-9901
Provena Mercy Medical Center	1325 North Highland Avenue		Aurora	IL	60506
Provena Saint Joseph Medical Center	333 North Madison Street		Joliet	IL	60435-6595
Provena Saint Marys Hospital	500 West Court Street		Kankakee	IL	60901
Provena St. Joseph Hospital	77 N. Airlite Street		Elgin	IL	60123
Providence Alaska Medical Center	3200 Providence Drive		Anchorage	AK	99508-4662
Providence Everett Medical Center	1321 Coby Avenue	PO Box 1147	Everett	WA	98206-1147
Providence Health Center	6901 Medical Parkway		Waco	TX	76712
Providence Holy Cross Medical Center	501 South Buena Vista Street		Burbank	CA	91505
Providence Hospital	6801 Airport Boulevard		Mobile	AL	36608

Providence Hospital	2435 Forest Drive		Columbia	SC	29204
Providence Medford Medical	1111 Crater Lake Avenue		Medford	OR	97504
Providence Medical Center	8929 Parallel Parkway		Kansas City	KS	66112-1689
Providence Memorial Hospital	2001 North Oregon Street		El Paso	TX	79902
Providence Portland Medical Center	9205 SW Barnes Road	9205 South West. Barnes Road	Portland	OR	97225
Providence Saint Joseph Medical Center	501 South Buena Vista Street		Burbank	CA	91505
Providence Saint Vincent Medical Center	Regional Heart Data Services	9205 South West Barnes Road #33	Portland	OR	97225
Providence St. Peter Hospital	413 N. Lilly Road		Olympia	WA	98506
Putnam Hospital Center	670 Stoneleigh Avenue		Carmel	NY	10512
Queen of the Valley Medical Center	1000 Trancas Street		Napa	CA	94558
Queens Medical Center	1301 Punchbowl Street		Honolulu	HI	96813
Rancho Spring Medical Center	36485 Inland Valley Drive		Wildomar	CA	92595
Rankin Medical Center	350 Crossgates Boulevard		Brandon	MS	39042
Rapid City Regional Hospital	353 Fairmont Boulevard		Rapid City	SD	57702

Rapides Regional Medical Center	211 4th Street Box 30101		Alexandria	LA	71301
Raulerson Hospital (HCA)	1796 Highway 441 North		Okeechobee	LA	34972
Redmond Regional Medical Center	501 Redmond Road		Rome	GA	30165
Reedsburg Area Medical Center	2000 N. Dewey Avenue		Reedsburg	WI	53959
Regents of the University of Michigan	300 N. Ingalls Street 7A10		Ann Arbor	MI	48109
Regional Hospital of Jackson	367 Hospital Boulevard		Jackson	TN	38305
Regional Medical Center	225 N. Jackson Avenue		San Jose	CA	95116
Regional Medical Center	3000 St. Matthews Road		Orangeburg	SC	29118
Regional Medical Center	900 Hospital Drive		Madisonville	KY	42431-1644
Regional Medical Center Bayonet Point	14000 Fivay Road		Hudson	FL	34667
Regions Hospital	640 Jackson Street	Mail Stop 11102-M	St. Paul	MN	55101
Reid Hospital & Healthcare Services	1401 Chester Boulevard		Richmond	IN	47374
Renown Regional Medical Center	1155 Mill Street	R 11	Reno	NV	89502
Research Medical Center	2316 East Meyer Boulevard	Cardiology Services	Kansas City	MO	64132
Reston Hospital	1850 Town Center Parkway		Reston	VA	20190

Center					
Resurrection Medical Center	7435 Talcott Avenue		Chicago	IL	60631
Rex Hospital	4420 Lake Boone Trail		Raleigh	NC	27607
Rhode Island Hospital	593 Eddy Street		Providence	RI	02903
Richardson Regional Medical Center	401 W. Campbell Road		Richardson	TX	75080
Richmond University Medical Center	355 Bard Avenue		Staten Island	NY	10310
Riddle Memorial Hospital	1068 W. Baltimore Pike		Media	PA	19063-5177
Rideout Memorial Hospital	726 4th Street		Maryville	CA	95901
Ridgecrest Regional Hospital	1081 N. China Lake Boulevard		Ridgecrest	CA	93555
Riley Hospital	1102 Constitution Avenue		Meridian	MS	39301
Rio Grande Regional Hospital	101 E. Ridge Road		McAllen	TX	78503
River Oaks Hospital	1030 River Oaks Drive		Flowood	MS	39232
River Region Medical Center	2100 Highway 61 North		Vicksburg	MS	39183
Riverside Community Hospital	4445 Magnolia Avenue		Riverside	CA	92501
Riverside Medical Center	350 N. Wall Street		Kankakee	IL	60901
Riverside Methodist Hospital	3535 Olentangy River Road		Columbus	OH	43214
Riverside Regional Medical Center	500 J Clyde Morris Boulevard		Newport News	VA	23601

Riverview Hospital	395 Westfield Road		Noblesville	IN	46060
Riverview Regional Medical Center	600 South Third Street	PO Box 268	Gadsden	AL	35901
Robert Packer Hospital	1 Guthrie Square		Gadsden	AL	18840
Robinson Memorial Hospital	6847 N. Chestnut Street		Ravenna	OH	44266
Rochester General Hospital	1425 Portland Avenue		Rochester	NY	14621
Rockford Memorial Hospital	2400 North Rockton Avenue		Rockford	IL	61103
Rogue Valley Medical Cent	2825 E. Barnett Road	Performance Improvement Dept.	Medford	OR	97504
Roper Hospital	316 Calhoun Street		Charleston	SC	29401
Rose Medical Center	4567 E. 9th Avenue		Denver	CO	80220-3941
Round Rock Medical Center	2400 Round Rock Medical Center		Round Rock	TX	78681
Rush Hospital	1314 19th Avenue		Meridian	MS	39301
Rush North Shore Medical Center	9600 Gross Point Road		Skokie	IL	60076
Rush Oak Park Hospital	520 South Maple Avenue		Oak Park	IL	60304-1097
Rush University Medical Center	1653 West Congress Parkway		Chicago	IL	60612
Rush-Copley Medical Center Attn: Health Science Library	2000 Ogden Avenue		Alexander City	AL	60504

Russell Medical Center	3316 Highway 280 PO Box 939		Alexander City	AL	35011
Rutland Regional Medical Center	160 Allen Street		Rutland	VT	05701
Sacred Heart Hospital of Pensacola	5151 North 9th Avenue		Pensacola	FL	32504-8721
Sacred Heart Hospital Attn: A/P	900 W. Clairemont Avenue		Eau Claire	WI	54701
Sacred Heart Medical Center	770 E. 11th Avenue		Eugene	OR	97401
Sacred Heart Medical Center	101 W. Eighth Avenue		Spokane	WA	99204
Saddleback Memorial Medical Center	24451 Health Center Drive		Laguna Hills	CA	92653
Saint Agnes Medical Center	1303 E. Herndon Avenue		Fresno	CA	93720
Saint Anthony Medical Center	1201 S. Main Street		Crown Point	IN	46307
Saint Bernadine Medical Center	2101 N. Waterman Avenue	2101 N. Waterman Avenue	San Bernadino	CA	92404-4836
Saint Clare's Hospital	611 St. Joseph's Avenue		Marshfield	WI	54449
Saint Elizabeth Health Center	1044 Belmont Avenue		Youngstown	OH	44511
Saint Elizabeth Hospital	2700 W. 9th Avenue Suite 107		Oshkosh	WI	54904
Saint Elizabeth Medical Center-South	1 Medical Village Drive		Edgewood	KY	41017-3403

Saint Elizabeth Regional Medical Center	555 S. 70th Street		Lincoln	NE	68510-2462
Saint Elizabeth's Hospital	211 South 3rd Street		Belleville	IL	62220-1915
Saint Francis Hospital	2122 Manchester Expressway		Columbus	GA	31904
Saint Francis Hospital	5959 Park Avenue		Memphis	TN	38119
Saint Francis Hospital	6161 S. Yale Avenue		Tulsa	OK	74136
Saint Francis Hospital & Health Center	8111 S. Emerson Avenue		Indianapolis	IN	46237
Saint Francis Hospital & Medical Center	114 Woodland Street		Hartford	CT	06105
Saint Francis Hospital of Evanston	355 Ridge Avenue		Evanston	IL	60202
Saint John Hospital & Medical Center	22151 Moross Road	Professional Bldg #1, #126	Detroit	MI	48236-2148
Saint John Macomb-Oakland Hospital	11800 E. 12 Mile Road	Room # 2510	Warren	MI	48093
Saint Johns Health Center	1328 Twenty-Second Street		Santa Monica	CA	90404
Saint Johns Mercy Medical Center	615 S. New Ballas Road		St. Louis	MO	63141
Saint Joseph – London	310 East 9th Street		London	KY	40741
Saint Joseph Hospital	2900 N. Lake Shore Drive		Chicago	IL	60657-6274
Saint Joseph Hospital	Saint Joseph Hospital & Medical Center	350 West Thomas Road	Phoenix	AZ	85013

Saint Joseph Hospital	1100 W. Steward Drive		Orange	CA	92868
Saint Joseph Hospital	2700 Dolbeer Street		Eureka	CA	95501
Saint Joseph Hospital	3001 W. Martin Luther King Boulevard		Tampa	FL	33607
Saint Joseph Regional Health Center	2801 Franciscan Street		Bryan	TX	77802-2544
Saint Joseph's Hospital	1824 Murdoch Avenue		Parkersburg	WV	26102-0327
Saint Josephs Hospital / Marshfield Clinic	611 St. Joseph Avenue		Marshfield	WI	54449-1832
Saint Joseph's Hospital of Atlanta	5665 Peachtree Dunwoody Road		Atlanta	GA	30342
Saint Louis University Hospital	3635 Vista at Grand		Saint Louis	MO	63110
Saint Luke's East – Lee's Summit	100 NE Saint Luke's Boulevard		Lee's Summit	MO	64086
Saint Luke's Hospital	1026 A Avenue, North East		Cedar Rapids	IA	52406-3026
Saint Luke's Hospital	4401 Wornall Road (MAHI 5th Floor)		Kansas City	MO	64111
Saint Luke's Northland	Saint Luke's Hospital	4401 Wornall Road	Kansas City	MO	64111
Saint Luke's Hospital	232 S. Woods Mill Road		Chesterfield	MO	63017-3417
Saint Luke's Regional Medical Center	190 E. Bannock Street		Boise	ID	83712-6241
Saint Margaret Mercy	5454 Hohman Avenue		Hammond	IN	46320
Saint Mary Corwin Medical Center	1008 Minnequa Avenue		Pueblo	CO	81004-3798

Saint Mary Mercy Hospital	36475 West Five Mile Road		Livonia	MI	48154
Saint Mary's Hospital	56 Franklin Street		Waterbury	CT	06706
Saint Mary's Hospital and Regional Medical Center	2635 N. 7th Street		Grand Junction	CO	81501-8209
Saint Mary's Medical Center	2900 First Avenue		Huntington	WV	25702
Saint Mary's Medical Center	3700 Washington Avenue		Evansville	IN	47750
Saint Mary's Regional Medical Center	235 W. Sixth Street		Reno	NV	89503
Saint Peter's Hospital	315 South Manning Boulevard		Albany	NY	12208
Saint Rita's Medical Center	730 West Market Street		Lima	OH	45801-4602
Saint Rose Dominican – Siena Campus	3001 St. Rose Parkway		Henderson	NV	89052
Saint Thomas Health Care Services	4220 Harding Road		Nashville	TN	37202-0380
Saint Vincent Health Center	252 West 25th Street		Erie	PA	16544
Saint Vincent Hospital	123 Summer Street	Suite 270	Worcester	MA	01608
Saint Vincent Hospital Manhattan	170 W. 12th Street		New York	NY	10011
Saint Vincent Medical Center/Health Center	2 St. Vincent Circle		Little Rock	AR	72205

Saint Vincent's Medical Center	2800 Main Street		Bridgeport	CT	06606
Salem Hospital (Regional Health Services)	665 Winter Street SE		Salem	OR	97301-3919
Salina Regional Health Center	400 S. Santa Fe Avenue		Salina	KS	67401
Salinas Valley Memorial Hospital	450 E. Romie Lane		Salinas	CA	93901-4098
Salt Lake Regional Medical Center	1050 E South Temple		Salt Lake City	UT	84102
San Antonio Community Hospital	999 San Bernardino Road		Upland	CA	91786
San Francisco Heart and Vascular Institute	1900 Sullivan Avenue		Daly City	CA	94015
San Jacinto Methodist Hospital	4401 Garth Road		Baytown	TX	77521
San Joaquin Community Hospital	2615 Eye Street		Bakersfield	CA	93301
San Joaquin General Hospital	500 W. Hospital Road		French Camp	CA	95231
San Juan Regional Medical Center	801 W. Maple Street		Farmington	NM	87401
San Ramon Regional Medical Center	6001 Norris Canyon Road		San Ramon	CA	94583
Sand Lake Hospital	1414 Kuhl Avenue		Orlando	FL	32806
Sanford USD Medical Center	900 East 54th Street		Sioux Falls	SD	57104

Santa Barbara Cottage Hospital	PO Box 689		Santa Barbara	CA	93102-0689
Santa Rosa Memorial Hospital	1165 Montgomery Drive PO Box 522		Santa Rosa	CA	95402
Santa Theresa Community Hospital	250 Hospital Parkway 1st Floor Cath Office		San Jose	CA	95119
Sarasota Memorial Hospital	1700 S. Tamiami Trail		Sarasota	FL	34239
Satilla Heart Center	410 Darling Avenue		Waycross	GA	31501
Savoy Medical Center	801 Poincianna Street		Mamou	LA	70554
Scott and White Hospital	2401 South 31st Street		Temple	TX	76508
Scottsdale Healthcare Osborn	7400 E. Osborn Road		Scottsdale	AZ	85260
Scottsdale Healthcare Shea	9003 E. Shea Boulevard – Administration		Scottsdale	AZ	85260
Scottsdale Healthcare Thompson Peak	7400 E. Osborn Road		Scottsdale	AZ	85251
Scripps Green Hospital – La Jolla	10666 North Torrey Pines Road		La Jolla	CA	92037
Scripps Memorial Hospital Encinitas	354 Santa Fe Drive		Encinitas	CA	92024
Scripps Memorial Hospital – La Jolla	9888 Genessee Avenue		La Jolla	CA	92037
Scripps Mercy Hospital – San Diego	4077 5th Avenue	MER 74	San Diego	CA	92103
Scripps Mercy Hospital – Chula Vista	435 H Street		Chula Vista	CA	91910

Sebastian River Medical Center	13695 US Highway 1		Sebastian	FL	32962
Self Regional Healthcare	1325 Spring Street		Greenwood	SC	29646
Sentara Norfolk General Hospital	600 Gresham Drive		Norfolk	VA	23507
Sentara Obici Hospital	2800 Goodwin Boulevard		Suffolk	VA	23434
Sentara Virginia Beach General Hospital	1060 First Colonial Road		Virginia Beach	VA	23454-0685
Sequoia Hospital	Whipple and Alameda Avenues	170 Alameda de Las Pulgas	Redwood City	CA	94062
Seton Medical Center	1201 W. 38th Street		Austin	TX	78705
Shady Grove Adventist Hospital	9901 Medical Center Drive		Rockville	MD	20850
Shands at AGH	801 SW 2nd Avenue		Gainesville	FL	32601
Shands Jacksonville Medical Center	655 West 8th Street		Jacksonville	FL	32209
Sharon Regional Health System	740 E. State Street		Sharon	PA	16146
Sharp Chula Vista Medical Center	8695 Spectrum Center Court		San Diego	CA	92123
Sharp Grossmont	5555 Grossmont Center Drive		La Mesa	CA	91942
Sharp Memorial Hospital	7901 Frost Street		San Diego	CA	92123
Shasta Regional Medical Center	1100 Butte Street		Redding	CA	96001

Shawnee Mission Medical Center	9100 West 74th Street		Shawnee Mission	KS	66204-4004
Shelby Baptist Medical Center	1000 First Street North		Alabaster	AL	35007
Sherman Hospital	934 Center Street	Decision Support	Elgin	IL	60120
Shore Health System of Maryland	219 South Washington Street		Easton	MD	21601
Sierra Medical Center	1625 Medical Center Drive		El Paso	TX	79902
Sierra Vista Regional Medical Center	1010 S. Murray Avenue		San Luis Obispo	CA	93405
Silver Cross Hospital	1200 Maple Road		Joliet	IL	60432
Simi Valley Hospital & Health Care Services	2975 North Sycamore Drive		Simi Valley	CA	93065
Sinai – Grace Hospital	6071 W. Outer Drive		Detroit	MI	48235
Sinai Hospital of Baltimore	2401 West Belvedere Avenue		Baltimore	MD	21215-5271
Singing River Hospital	3109 Bienville Boulevard		Ocean Springs	MS	39564
Skaggs Community Health Center	PO Box 650		Branson	MO	65615-0650
Sky Ridge Medical Center	10101 Ridgegate Parkway		Lone Tree	CO	80124
Skyline Medical Center/ HTI Memorial Hospital Corp.	3441 Dickerson Pike		Nashville	TN	37207

Smith of Georgia, LLC d.b.a. Smith Northview Hopsital	PO Box 10010		Valdosta	GA	31604
Somerset Hospital	225 South Center Avenue		Somerset	PA	15501-2088
Sound Shore Medical Center	16 Guion Place		New Rochelle	NY	10801
South Baldwin Regional Medical Center	1613 N. McKenzie Street		Foley	AL	36535
South Bay Hospital	4016 Sun City Center Boulevard		Sun City Center	FL	33570
South Crest Hospital	8801 S. 101st E Avenue		Tulsa	OK	74133
South Fulton Medical Center	1170 Cleveland Avenue		East Point	GA	30344
South GA Medical Center	PO Box 1727		Valdosta	GA	31603-1727
South Miami Hospital	6200 SW 73rd Street		Miami	FL	33143
South Nassau Communities Hospital	One Healthy Way		Oceanside	NY	11572
South Shore Hospital	55 Fogg Road`		South Weymouth	MA	02190-2432
Southampton Hospital	240 Meetinghouse Lane		Southampton	NY	11968
Southeast Alabama Medical Center	1108 Ross Clark Circle		Dothan	AL	36301
Southeast Baptist Hospital	730 North Main Avenue	Suite 409	San Antonio	TX	78205
Southeast Missouri Hospital	1701 Lacey Street		Cape Girardeau	MO	63701
Southern Hills	9300 West Sunset Road		Las Vegas	NV	89148

Hospital					
Southern New Hampshire Medical Center	8 Prospect Street		Nashua	NH	03060
Southern Ohio Medical Center	1805 27th Street		Portsmouth	OH	45662
Southern Regional Medical Center	11 Upper Riverdale Road SW		Riverdale	GA	30274
Southlake Hospital	1099 Citrus Tower Boulevard		Clermont	FL	34711
Southside Hospital	301 East Main Street		Bayshore	NY	11706
Southwest Florida Regional Medical Center	636 Del Prado Boulevard Suite 104		Cape Coral	FL	33990
Southwest General Health Center	18697 Bagley Road		Middleburg Heights	OH	44130-3417
Southwest General Hospital	7400 Barlite Boulevard		San Antonio	TX	78224
Southwest Medical Center	2810 Ambassador Caffrey Parkway		Lafayette	LA	70506
Southwest MS Regional Medical Center	303 Marion Avenue		McComb	MS	39648
Southwest Washington Medical Center	600 NE 92nd Avenue		Vancouver	WA	98664
Southwestern Medical Center	5602 SW Lee Boulevard		Lawton	OK	73505

Spalding Regional Medical Center	601 South 8th Street		Griffin	GA	30224
Sparks Regional Medical Center	P O Box 17006	1001 Towson	Fort Smith	AR	72917-7006
Sparrow Health System	1215 East Michigan Avenue		Lansing	MI	48909-7980
Spartanburg Regional Medical Center	101 East Wood Street	Cardiac Cath Lab / 3rd Floor Heart Center	Spartanburg	SC	29303
Spectrum Health	100 Michigan Street NE	MC 037, Rm 3825A	Grand Rapids	MI	49503-2560
Spring Branch Medical Center	8850 Long Point Road		Houston	TX	77055
Spring Valley Hospital	5400 S. Rainbow Boulevard		Las Vegas	NV	89118
Springfield Regional Medical Center – High Street Campus	2615 W. High Street		Springfield	OH	45505
Springfield Regional Medical Center, Fountain Camp	1343 North Fountain Boulevard		Springfield	OH	45503
Springhill Memorial Hospital	3719 Dauphin Street		Mobile	AL	36608
Springs Memorial Hospital	800 West Meeting Street		Lancaster	SC	29720
SSM St. Joseph Health Center	300 First Capitol Drive		St. Charles	MO	63301
SSM St. Joseph Hospital of Kirkwood	525 Couch Avenue		Kirkwood	MO	63122

St. Anthony Central Hospital	4231 W. 16th Avenue		Denver	CO	80204-1335
St. James Hospital and Health Centers	20201 S. Crawford Avenu		Olympia Fields	IL	60461
St. John's Hospital	69 W. Exchange Street		St. Paul	MN	55102
St. Joseph Hospital	700 Broadway		Fort Wayne	IN	46802
St. Joseph Hospital-Oakland	44405 Woodward Avenue		Pontiac	MI	48341-5023
St. Joseph Medical Center	1717 South J Street		Tacoma	WA	98405-4933
St. Josephs Hospital	69 W. Exchange Street		St Paul	MN	55102
St. Joseph Hospital Health Center	301 Prospect Avenue		Syracuse	NY	13203
St. Luke's Cornwall Hospital	70 DuBois Street		Newburgh	NY	12550
St. Mary's Health Care Systems	1230 Baxter Street		Athens	GA	30606
St. Mary's Hospital	400 North Pleasant		Centralia	IL	62801
St. Mary's Regional Medical Center	305 S. 5th Street		Enid	OK	73701
St. Vincent Mercy Medical Center	2213 Cherry Street		Toledo	OH	43608
St. Agnes Hospital	900 Caton Avenue		Baltimore	MD	21229
St. Agnes Hospital	430 E. Division Street		Fond du lac	WI	54935
St. Alexius Medical Center	1555 Barrington Road		Hoffman Estates	IL	60194-1018

St. Alphonsus Regional Medical Center	1055 N. Curtis Road		Boise	ID	83706
St. Anthony Hospital	1000 N. Lee Avenue		Oklahoma City	OK	73102
St. Anthony's Health Care	1200 7th Avenue North	MS 2019	St. Petersburg	FL	33705
St. Anthony's Medical Center	10010 Kennerly Road		St. Loius	MO	63128-2106
St. Barnabas Medical Center	94 Old Short Hills Road		Livingston	NJ	07039
St. Bernards Medical Center	225 E. Jackson Avenue		Jonesboro	AR	72401
St. Catherine Hospital East Chicago	1500 South Lake Park Avenue		Hobart	IN	46342
St. Catherine of Siena	50 Route 25A		Smithtown	NY	11787
St. Charles Hospital	200 Belle Terre Road		Port Jefferson	NY	11777
St. Charles Medical Center	2500 North East Neff Road		Bend	OR	97701-6015
St. Clair Hospital	St. Clair Hospital	1000 Bower Hill Road	Pittsburgh	PA	15243
St. Cloud Regional Medical Center	2906 17th Street		St. Cloud	FL	34769
St. David's Medical Center	919 East 32nd Street		Austin	TX	78765
St. David's South Austin Hospital	901 W. Ben White Boulevard		Austin	TX	78704
St. Dominic-Jackson Memorial Hospital	969 Lakeland Drive		Jackson	MS	39216

St. Edwards Mercy Medical Center	7301 Rogers Avenue		Ft. Smith	AR	72917-7000
St. Elizabeth Hospital	2233 W. Division Street		Chicago	IL	60622
St. Elizabeth Hospital Medical Center	1501 Hartford Street		Lafayette	IN	47904
St. Elizabeth Medical Center	2209 Genesee Street		Utica	NY	13501
St. Francis Health Center	1700 SW 7th Street		Topeka	KS	66605
St. Francis Hospital	One St. Francis Drive		Greenville	SC	29601
St. Francis Hospital	701 N. Clayton Street		Wilmington	DE	19805
St. Francis Hospital	333 Laidley Street	PO Box 44 Culloden, WV 25510	Charleston	WV	25322
St. Francis Hospital	100 Port Washington Boulevard		Roslyn	NY	11576
St. Francis Medical Centerq	211 Saint Francis Drive		Cape Girardeau	MO	63703-5049
St. Francis Medical Center	3630 Imperial Highway		Lynwood	CA	90265
St. Francis Medical Center	309 Jackson Street		Monroe	LA	71201
St. Francis Medical Center	601 Hamilton Avenue		Trenton	NJ	08629
St. Francis North Hospital	309 Jackson Street		Monroe	LA	71201
St. Helena Hospital	10 Woodland Road		St. Helena	CA	94574

St. James Health Care	400 South Clark Street		Butte	MT	59701
St. John Medical Center	1923 S. Utica Avenue	Heart Institute Education/ Research	Tulsa	OK	74104
St. John Medical Center	1615 Delaware Street		Longview	WA	98632
St. John Providence Hospital	16001 W. Nine Mile Road		Southfield	MI	48075
St. John West Shore Hospital	29000 Center Ridge Road		Westlake	OH	44145
St. John's Hospital	800 E. Carpenter Street		Springfield	IL	62769
St. John's Hospital	1235 East Cherokee Street		Springfield	MO	65804
St. John's Pleasant Valley Hospital	2309 Antonio Avenue		Camarillo	CA	93010
St. John's Queens Hospital	90-02 Queens Boulevard		Elmhurst	NY	11373
St. Johns Regional Medical Center	2727 McClelland Boulevard		Joplin	MO	64804
St. Johns Regional Medical Center	1600 N. Rose Avenue		Oxnard	CA	93030-3722
St. John's Riverside Hospital	967 North Broadway	Health Information Services	Yonkers	NY	10701
St. Joseph Hospital	172 Kinsley Street		Nashua	NH	03060
St. Joseph Hospital	360 Broadway		Bangor	ME	04401
St. Joseph Hospital	1 Saint Joseph Drive		Lexington	KY	40504
St. Joseph Hospital	2901 Squalicum Parkway		Bellingham	WA	98225

St. Joseph Intercommunity Hospital	2605 Harlem Road		Cheektowaga	NY	14225
St. Joseph Medical Center	2200 E. Washington Street		Bloomington	IL	61701
St. Joseph Medical Center	12th & Walnut Streets		Reading	PA	19603
St. Joseph Medical Center	1401 St. Joseph Parkway		Houston	TX	77002
St. Joseph Medical Center	7601 Olser Drive		Towson	MD	21204
St. Joseph Mercy Hospital	5325 Elliot Drive		Ann Arbor	MI	48106
St. Joseph Reg. Medical Center	801 E. Lasalle Avenue		South Bend	IN	46617
St. Joseph Regional Medical Center	703 Main Street		Paterson	NJ	07503
St. Joseph's Hospital	11705 Mercy Boulevard		Savannah	GA	31419
St. Joseph's Hospital	350 N. Wilmot Road		Tucson	AZ	85711
St. Joseph's Medical Center	127 S. Broadway		Yonkers	NY	10701
St. Josephs Medical Center of Stockton	1805 North California Street Suite 303	Suite #303	Stockton	CA	95204
St. Josephs Mercy Health Center	300 Werner Drive		Hot Springs	AR	71913
St. Jude Medical Center	101 East Valencia Mesa		Fullerton	CA	92835
St. Luke Hospital East	85 N. Grand Avenue		Ft. Thomas	KY	41075
St. Luke Hospital	7380 Turfway Road		Florence	KY	41042

West					
St. Luke's Baptist Hospital	730 North Main Avenue	Suite 409	San Antonio	TX	78205
St. Luke's Community Medical Center (The Woodlands)	17200 St. Luke's Way		The Woodlands	TX	77384
St. Luke's Episcopal Hospital	3100 Main Street	MC5-313	Houston	TX	77030
St. Lukes Hospital	363 Highland Avenue		Falls River	MA	02720
St. Lukes Hospital	5901 Monclova Road		Maumee	OH	43537
St. Luke's Hospital	915 E. First Street		Duluth	MN	55805
St. Luke's Hospital & Health Network	940 Cherokee Street		Bethlehem	PA	18015
St. Luke's Hospital and Health Network (Allentown Campus)	1736 Hamilton Boulevard		Allentown	PA	18104
St. Luke's Medical Center	2901 West Oklahoma Avenue		Milwaukee	WI	53215-4330
St. Luke's Medical Center	1800 E. Van Buren Street		Phoenix	AZ	85006
St. Luke's South Hospital	Saint Luke's Hospital	4401 Wornal Road	Kansas City	MO	64111
St. Luke's-Roosevelt Hospital Center	1111 Amsterdam Avenue		New York City	NY	10025
St. Mark's Hospital/ Northern Utah Healthcare Corporation	1200 East 3900 South		Salt Lake City	UT	84124

St. Mary Hospital	1201 Langhorne Newton Road		Langhorne	PA	19047
St. Mary Medical Center	18300 Highway 18		Appple Valley	CA	92307
St. Mary Medical Center	1050 Linden Avenue		Long Beach	CA	90813-3321
St. Mary Medical Center	1500 South Lake Park Avenue		Hobart	ID	46342
St. Mary of Nazareth Hospital Center	2233 W. Division Street		Chicago	IL	60622
St. Mary's Health Center	6420 Clayton Road		St. Louis	MO	63117
St. Mary's Hospital	1800 East Lake Shore Drive		Decatur	IL	62521
St. Mary's Hospital	1726 Shawano Avenue		Madison	WI	54303-3282
St. Mary's Hospital	707 S. Mills Street		Madison	WI	53715-1849
St. Mary's Hospital (Passaic)	350 Boulevard		Passaic	NJ	07055
St. Mary's Medical Center	901 45th Street		West Palm Beach	FL	33407
St. Mary's Medical Center	450 Stanyan Street		San Francisco	CA	94117
St. Mary's Medical Center	900 E. Oak Hill Avenue		Knoxville	TN	37917
St. Mary's Medical Center	407 East Third Street		Duluth	MN	55805
St. Mary's of Michigan	800 S. Washington Avenue		Saginaw	MI	48601

St. Mary's Regional Medical Center	PO Box 291 Campus Avenue		Lewiston	ME	04243-0291
St. Michael's Medical Center	111 Central Avenue		Newark	NJ	07102
St. Nicholas Hospital	3100 Superior Avenue		Sheboygan	WI	53081
St. Patrick Hospital and Health Sciences Center	500 W. Broadway		Missoula	MT	59802
St. Rose Dominican – De Lima Campus	3001 Saint Rose Parkway		Henderson	NV	89052
St. Rose Dominican – San Martin	3001 Saint Rose Parkway		Henderson	NV	89052
St. Rose Hospital	27200 Calaroga Avenue		Hayward	CA	94539
St. Tammany Parish Hospital	1202 S. Tyler Street		Covington	LA	70433
St. Vincent Charity Hospital	2351 East 22nd Street		Cleveland	OH	44115
St. Vincent Healthcare	1233 N. 30th Street		Billings	MT	59101
St. Vincent Hospital	810 St. Vincents Drive		Birmingham	AL	35205
St. Vincent Hospital	835 S. Van Buren Street		Green Bay	WI	54301
St. Vincent Medical Center	2131 W. 3rd Street		Los Angeles	CA	90703
St. Vincent's Medical Center	1800 Barrs Street		Jacksonville	FL	32204
St.Vincent's East	50 Medical Park East Drive		Birmingham	AL	35235-3499
Stamford Hospital Health Sciences Library	30 Shelbourne Road PO Box 9317		Stamford	CT	06904-9317

Stanford Hospital and Clinics	Falk Building 2nd Floor 300 Pasteur Drive		Stanford	CA	94305
Staten Island University Hospital	475 Seaview Avenue		Staten Island	NY	10305
Stony Brook University Medical Center	3 Technology Drive		East Setauket	NY	11733-4073
Stormont-Vail Regional Medical Center	929 SW Mulvane Street		Topeka	KS	66606
Straub Clinic & Hospital: Cath Lab	888 S. King Street		Honolulu	HI	96813
Stringfellow Memorial Hospital	301 East 18th Street		Anniston	AL	36202
Suburban Hospital	8600 Old Georgetown Road		Bethesda	MD	20814
Summerlin Hospital Medical Center	657 Town Center Drive		Las Vegas	NV	89144
Summit Healthcare Regional Medical Center	2200 East Show Low Lake Road		Show Low	AZ	85901
Summit Medical Center	East Main & South 20th Streets		Van Buren	AR	72956
Summit Medical Center	5655 Frist Boulevard		Hermitage	TN	37076
Sun Coast Hospital	2025 Indian Rocks Road S		Largo	FL	33774-1096
Sunrise Hospital and Medical Center	3186 S. Maryland Parkway		Las Vegas	NV	89109
Sutter Delta Medical Center	3901 Lone Tree Way		Antioch	CA	94509

Sutter Medical Center – Sacramento	5151 F Street 1 South	Transplant & Heart Specialty Clinics	Sacramento	CA	95819
Sutter Medical Center of Santa Rosa	3325 Chanate Road		Santa Rosa	CA	95404
Swedish American Hospital	1401 E. State Street		Rockford	IL	61104
Swedish Covenant Hospital	5145 N. California Avenue		Chicago	IL	60625
Swedish Health Services	500 17th Avenue #A85C		Seattle	WA	98104
Swedish Medical Center	501 East Hampden Avenue		Englewood	CO	80113
T. J. Samson Community Hospital	1301 North Race Street		Glasgow	KY	42141
Tacoma General Hospital	315 Martin Luther King, Jr. Way		Tacoma	WA	98415
Tahlequah City Hospital	1400 East Downing Street		Tahlequah	OK	74465-1008
Tallahassee Memorial Hospital	1300 Miccosukee Road	Attn: Performance Improvement	Tallahassee	FL	32308
Tampa General Hospital	PO Box 1289		Tampa	FL	33601-1289
Temple University Hospital	3401 North Broad Street	1st Floor Room B – 150	Philadelphia	PA	19140
Terre Haute Regional Hospital	3901 South 7th Street		Terre Haute	IN	47802
Terrebonne General Medical Center	8166 Main Street		Houma	LA	70360

Texoma Medical Center	1000 Memorial Drive		Denison	TX	75020
TexSAn Heart Hospital	6700 IH-10 West		San Antonio	TX	78201-2009
The Christ Hospital	2139 Auburn Avenue		Cincinnati	OH	45219
The George Washington University Hospital	900 23rd Street, NW		Washington	DC	20037
The Good Samaritan Hospital	PO Box 1281	4th and Walnut Streets	Lebanon	PA	17042
The Heart Hospital Baylor Plano	1100 Allied Drive		Plano	TX	75093
The Heart Hospital of Northwest Texas	1501 S. Coulter Street	PO Box 1110	Amarillo	TX	79175
The Hospital at Westlake Medical Center	5656 Bee Caves Road M-302		Austin	TX	78746
The Hospital of West Central Connecticut	100 Grand Street PO Box 100		New Britain	CT	06050
The Indiana Heart Hospital	8075 North Shadeland Avenue		Indianapolis	ID	46250
The Medical Center (TMC)	1000 Dutch Ridge Road		Beaver	PA	15009
The Medical Center of Southeast Texas	2555 Jimmy Johnson Boulevard		Port Arthur	TX	77640
The Methodist DeBakey Heart Center	6565 Fannin Street		Houston	TX	77030

The Monroe Clinic	515 22nd Avenue		Monroe	WI	53566
The Mount Sinai Hospital of Queens	25-11 30th Avenue		Long Island City	NY	11102
The Mount Sinai Medical Center	The Mount Sinai Medical Center		New York	NY	10029
The Nebraska Medical Center	987551 Nebraska Medical Center		Omaha	NE	68198
The Presbyterian Hospital	200 Hawthorne Lane		Charlotte	NC	28233
The Reading Hospital and Medical Center	Sixth Avenue and Spruce Street		West Reading	PA	19611
The Toledo Hospital	2142 North Cove Boulevard	Jobst Tower Suite 200	Toledo	OH	43606
The Valley Hospital	223 North Van Dien Avenue		Ridgewood	NJ	07450
The Village Regional Hospital				AR	
The Washington Hospital	155 Wilson Avenue		Washington	PA	15301-3398
The Western Pennsylvania Hospital	4800 Friendship Avenue	CVI	Pittsburgh	PA	15224
The Wisconsin Heart Hospital, Inc.	WFH Clinical Data Management and Analysis	5000 West Chambers, M229	Milwaukee	WI	53210
Thomas Hospital	750 Morphy Avenue		Fairhope	AL	36532
Thomas Jefferson University Hospital	TJUH	111 S. 11th Street Gibbon	Philadelphia	PA	19107

		Building			
Tift Regional Medical Center	PO Box 747	901 E. 18th Street	Tifton	GA	31794
Tobey Hospital	363 Highland Avenue		Fall River	MA	
Tomball Regional Hospital	605 Holderrieth Boulevard		Tomball	TX	77375
Torrance Memorial Medical Center	3330 Lomita Boulevard		Torrance	CA	90505
Tri-City Medical Center	4002 Vista Way		Oceanside	CA	92056
Trident Regional Medical Center	9330 Medical Plaza Drive		Charleston	SC	29406
Trinity Hospitals	PO Box 5020		Minot	ND	58702
Trinity Medical Center	Attn: CardioVascular Services	800 Montclair Road	Birmingham	AL	35213
Trinity Medical Center	2701 17th Street	3rd Floor	Rock Island	IL	61201
Trinity Medical Center West	4000 Johnson Road		Steubenville	OH	43952
Trinity Regional Medical Center	802 Kenyon Road		Fort Dodge	IA	50501
Trinity Regional Medical Center	2701 17th Street	3rd Floor	Rock Island	IL	61201
Tucson Heart Hospital	4888 North Stone Avenue		Tucson	AZ	85704
Tucson Medical Center	5301 E. Grant Road		Tucson	AZ	85712
Tufts Medical Center	750 Washington Street		Boston	MA	02111

Tulane Medical Center	1415 Tulane Avenue		New Orleans	LA	70112
Tuomey Healthcare System Tuomey Regional Medical Center	129 N. Washington Street		Sumter	SC	29150
UC San Diego Medical Center	200 W. Arbor Drive		San Diego	CA	92103
UMASS Memorial Medical Center	55 Lake Ave North		Worcester	MA	01655-0002
Union Hospital	1606 N. 7th Street		Terre Haute	IN	47804
Union Memorial Hospital	201 E. University Parkway		Baltimore	MD	21218-2891
United Health Services Hospitals/Wilson Regional Medical Center	33 – 57 Harrison Street	Decker 4 Lobby	Johnson City	NY	13790
United Hospital	333 N. Smith Avenue		St. Paul	MN	55102
United Hospital Center, Inc.	PO Box 1680		Clarksburg	WV	53143
United Hospital System	6308 8th Avenue		Kenosha	WI	53143
United Regional Healthcare System	1600 11th Street		Wichita Falls	TX	76301
Unity Health Center	1102 West MacArthur		Shawnee	OK	74804
Unity Hospital	550 Osbourne Road NE		Minneapolis	MN	55432
Unity Hospital	1555 Long Pond Road		Rochester	NY	14626

University Community Hospital	3100 East Fletcher Avenue		Tampa	FL	33613
University Community Hospital Carrollwood Campur	3100 East Fletcher Avenue		Tampa	FL	33613
University of Alabama Hospital	620 19th Street South		Birmingham	AL	35249
University Hospital	234 Goodman Street		Cincinnati	OH	45219
University Hospital	1350 Walton Way		Augusta	GA	30901
University Hospitals Bedford Medical Center	44 Blaine Avenue		Bedford	OH	44146
University Hospitals Case Medical Center	11100 Euclid Avenue		Cleveland	OH	44106
University Hospitals Richmond Medical Center	27100 Chardon Road		Richmond Heights	OH	44143
University Hospital UMDNJ	150 Bergen Street		Newark	NJ	07101
University Medical Center	1501 N. Campbell Avenue		Tucson	AZ	85724
University Medical Center	1411 Baddour Parkway		Lebanon	TN	37087
University Medical Center	602 Indiana Avenue		Lubbock	TX	79410
University Medical Center LSU	2390 W. Congress Street		Lafayette	IA	70506
University Medical Center Southern Nevada	1800 W. Charleston Boulevard		Las Vegas	NV	89102

University of Arkansas Medical Sciences	4301 West Markham Street Suite 532		Little Rock	AR	72205
University of Califorina, Irvine Division of Cardiology	101 The City Drive		Orange	CA	92868
University of California (UCLA)	757 Westwood Boulevard Rm. 2412		Los Angeles	CA	90095
University Of California Davis Medical Center	2315 Stockton Boulevard Main Hospital, Rm 6312		Sacramento	CA	95817
University of California San Francisco Medical Center	505 Parnassus Avenue L-523 Box 0210		San Francisco	CA	94143-0210
University of Chicago Hospitals	5841 S. Maryland Avenue		Chicago	IL	60637
University of Colorado Hospital Authority	16205 E. 16th Avenue	Box 132	Aurora	CO	80045
University of CT Health Center/John Dempsey Hospital	263 Farmington Avenue		Farmington	CT	06030
University of Florida (Shands)College of Medicine	1600 SW Archer Road		Gainesville	FL	32610

University of Illinois Medical Center at Chicago	1740 W. Taylor Street	Bldg 949 Rm 2181	Chicago	IL	60610
University of Iowa Hospitals and Clinics	200 Hawkins Drive		Iowa City	IA	52242
University of Kentucky	800 Rose Street		Lexington	KY	40536
University of Louisville Hospital	530 S. Jackson Street		Loiusville	KY	40202
University of Maryland Medical Center Cardiology	22 S. Greene Street		Baltimore	MD	21201-1544
University of Minnesota Medical Center Fairview	420 Delaware Street SE MMC 815		Minneapolis	MN	55455
University of Mississippi Medical Center	2500 N. State Street		Jackson	MS	39216
University of Missouri Hospital and Clinics	1 Hospital Drive		Columbia	MO	65212
University of North Carolina Hospitals	UNC Hospitals	101 Manning Drive CB#7075	Chapel Hill	NC	27514
University of Rochester Medical Center	601 Elmwood Avenue		Rochester	NY	14642
University of South Alabama Cardiology Department	2451 Fillingim Street		Mobile	AL	36617

University of Tennessee Medical Center	1924 Alcoa Highway		Knoxville	TN	37920-6999
University of Texas Medical Branch at Galveston	301 University Boulevard		Galveston	TX	77555-0294
University of Texas Southwestern-University Hospital	5323 Harry Hines Boulevard		Dallas	TX	75390-9013
University of Toledo Medical Center	3065 Arlington Avenue	DH2261	Toledo	OH	43614
University of Utah Hospitals and Clinics	50 North Medical Drive		Salt Lake City	UT	84132
University of Virginia Medical Center	2441 Barringer West Complex	PO Box 800679	Charlottesville	VA	22908-0679
University of Washington Medical Center	1959 NE Pacific Street		Seattle	WA	98195-6422
University of Wisconsin Hospital & Clinics	600 Highland Avenue MC 3204		Madison	WI	53792
UPMC Mercy	1400 Locust Street		Pittsburgh	PA	15219
UPMC Passavant Hospital	9100 Babcock Boulevard		Pittsburgh	PA	15237
UPMC Presbyterian Hospital	5230 Centre Avenue		Pittsburgh	PA	15232
UPMC Shadyside Hospital	5230 Centre Avenue		Pittsburgh	PA	15232

Upper Chesapeake Medical Center, Inc.	500 Upper Chesapeake Drive		Bel Air	MD	21014
Upstate Medical University (SUNY)	750 East Adams Street		Syracuse	NY	13120
USC University Hospital	1500 San Pablo Street		Los Angeles	CA	90033
Utah Valley Regional Medical Center	1034 S. 500 W		Provo	UT	84605
Val Verde Regional Medical Center	801 Bedell Avenue		Del Rio	TX	78840
Valley Baptist Medical Center	2101 Pease Street		Harlingen	TX	78550
Valley Care Medical Center	1111 East Stanley Boulevard		Livermore	CA	94550
Valley Hospital Medical Center	620 Shadow Lane		Las Vegas	NV	89106
Valley Medical Center	400 South 43rd Street		Renton	WA	98058
Valley Presbyterian Hospital	15107 Vanowen Street		Van Nuys	CA	91405
Valley Regional Medical Center	Valley Regional Medical Center	100A East Alton Gloor Building	Brownsville	TX	78526
Valley View Medical Center	5330 S. Highway 95		Fort Mohave	AZ	86427
Vanderbilt Heart Institute	1215 21st Avenue	MCE 5th floor	Nashville	TN	37232
Vassar Brothers Medical Center	45 Reade Place		Poughkeepsie	NY	12601

Vaughan Regional Medical Center	1015 Medical Center Parkway		Selma	AL	36701
VCU – Medical College of Virginia	PO Box 980036		Richmond	VA	23298
Venice Regional Medical Center	540 The Rialto		Venice	FL	34285
Verde Valley Medical Center	269 South Candy Lane		Cotttonwood	AZ	86326
Verdugo Hills Hospital	1812 Verdugo Boulevard		Glendale	CA	91208
Via Christi Wichita Health Network	929 N. St. Francis Street		Wichita	KS	67214
Ville Platte Medical Center	800 East Main Street		Ville Platte	LA	70586
Virginia Hospital Center	1701 N. George Mason Drive		Arlington	VA	22205-3698
Virginia Mason Medical Center	1100 Ninth Avenue	X3-CVL	Seattle	WA	98111
Wadley Regional Medica Center	1000 Pine Street		Texarkana	TX	75501
WakeMed Cary Hospital	3128 Smoketree Court		Raleigh	NC	27604
WakeMed Raleigh Campus	3000 New Bern Avenue		Raleigh	NC	27610
Walker Regional Medical Center	3400 Highway 78 E		Jasper	AL	35501
Washington Adventist Hospital	7600 Carroll Avenue		Takoma Park	MD	20912
Washington County Hospital	251 East Antietam Street		Hagerstown	MD	21740

Washington Hospital	2000 Mowry Avenue		Fremont	CA	94538
Washington Hospital Center	110 Irving Street NW Rm 5A14		Washington	DC	20010
Washington Regional Medical Center	1125 N College Avenue		Fayetteville	AR	72703-1994
Waterbury Hospital	PO Box 2153		Waterbury	CT	06722-2153
Watsonville Community Hospital	75 Nielson Street		Watsonville	CA	95076
Waukesha Memorial Hospital	725 American Avenue		Waukesha	WI	53188
Weatherford Regional Medical Center	713 East Anderson Street		Weatherford	TX	76086
Weiss Memorial Hospital	4646 N. Marine Drive		Chicago	IL	60640
Wellmont Holston Valley Medical Center	130 W Ravine Road		Kingsport	TN	37660
Wellstar Cobb Hospital	677 Church Street		Marietta	GA	30066
Wellstar Kennestone Hospital	677 Church Street		Marietta	GA	30066
Wesley Medical Center	550 N. Hillside Street		Wichita	KS	67214
Wesley Medical Center	5001 Hardy Street		Hattiesburg	MS	39402
West Anaheim Medical Center	3033 West Orange Avenue		Anaheim	CA	92084
West Florida Hospital	8383 Davis Highway		Pensacola	FL	32514
West Hills Hospital	7300 Medical Center Drive		West Hills	CA	91307
West Houston	12141Richmond Avenue		Houston	TX	77082

Medical Center					
West Jefferson Medical Center	1101 Medical Center Boulevard		Marrero	LA	70072
West Suburban Medical Center	3 Erie Court		Oak Park	Il	60302
West Valley Hospital	13677 W. McDowell Road		Goodyear	AZ	85338
West Virginia University Hospitals, Inc.	PO Box 8003	Medical Center Drive	Morgantown	WV	26506-8003
Westchester County Medical Center	95 Grasslands Road Suite 114		Valhalla	NY	10595
Western Arizona Regional Medical Center	2735 Silver Creek Road		Bullhead City	AZ	86442
Western Baptist Hospital	2501 Kentucky Avenue		Paducah	KY	42003
Western Cardiology	9191 Grant Street		Denver	CO	80229
Western Medical Center Santa Ana	1001 North Tustin Avenue		Santa Ana	CA	92705
Western Plains Medical Center	3001 Avenue A		Dodge City	KS	67801
Westside Regional Medical Center	8201 West Broward Boulevard		Plantation	FL	33324
Wheaton Franciscan Healthcare-All Saints, Inc.	WFHC Clinical Data Management and Analysis	5000 West Chambers, M229	Milwaukee	WI	53210

Wheaton Franciscan Healthcare-St. Francis, Inc.	WFHC Clinical Data Management and Analysis	5000 West Chambers, M229	Milwaukee	WI	53210
Wheaton Franciscan Healthcare-St. Joseph, Inc.	WFH Clinical Data Management and Analysis	5000 West Chambers, M229	Milwaukee	WI	53210
Wheeling Hospital	1 Medical Park		Wheeling	WV	26003
White County Medical Center	3214 E. Race Avenue		Searcy	AR	72143-4810
White Memorial Medical Center	1720 Cesar E. Chavez Avenue		Los Angeles	CA	90033
White River Medical Center	1710 Harrison Street		Batesville	AR	72501
William Beaumont Hospital	54373 Samara Drive		Macomb	MI	48073-2213
William Beaumont Hospita – Troy	44201 Dequindre Road		Troy	MI	48085
William W. Backus Hospital	326 Washington Street		Norwich	CT	06360
Willis-Knighton Medical Center	2600 Greenwood Road		Shreveport	LA	71103
Wilson Memorial Hospital	915 West Michigan Street		Sidney	OH	45365
Wilson N. Jones Medical Center	500 N Highland Avenue		Sherman	TX	75092
Winchester Medical Center Inc.	220 Campus Boulevard	Suite 313	Winchester	VA	22601
Winter Haven Hospital	20005 Avenue F Northeast		Winter Haven	FL	33881

Winthrop-University Hospital	259 First Street		Mineola	Ny	11501
Wise Regional Health System	609 Medical Center Drive		Decatur	TX	76234
Wishard Health Services Attn: A/P	1001 W. 10th Street		Indianapolis	IN	46202
Woman's Christian Association Hospital	207 Foote Avenue		Jamestown	NY	14701
Woodland Healthcare	1325 Cottonwood Street		Woodland	CA	95695
Woodland Heights Medical Center	505 S. John Redditt Drive		Lufkin	TX	75904
Wooster Community Hospital	1761 Beall Avenue		Wooster	OH	44691
Wuesthoff Health System	110 Longwood Avenue		Rockledge	FL	32956-5002
Wyckoff Heights Medical Center	374 Stockholm Street	Division of Cardiology - 3rd Floor	Brooklyn	NY	11237
Wyoming Medical Center	1233 East 2nd Street		Casper	WY	82601-2988
Wyoming Valley Health Care System	575 North River Street		Wilkes-Barre	PA	18764
Yakima Regional Medical Center/Cardiac Center	110 S. 9th Avenue		Yakima	WA	98902
Yakima Valley Memorial Hospital	2811 Tieton Drive		Yakima	WA	98902

Yale New Haven Hospital	20 York Street		New Haven	CT	06510
Yavapai Regional Medical Center	1003 Willow Creek Rd		Prescott	AZ	86301
York Hospital	15 Hospital Drive		York	ME	03909
York Hospital	1001 South George Street		York	PA	17405
Yuma Regional Medical Center	2400 S. Avenue A		Yuma	AZ	85364

Addendum X
Active CMS Coverage-Related Guidance Documents
[October Through December 2008]

On September 24, 2004, we published a notice in the **Federal Register** (69 FR 57325), in which we explained how we would develop coverage-related guidance documents. These guidance documents are required under section 731 of the MMA. In our notice, we committed to the public that, "At regular intervals, we will update a list of all guidance documents in the **Federal Register**."

Addendum X includes a list of active CMS guidance documents as of the ending date of the period covered by this notice. To obtain full-text copies of these documents, visit the CMS Coverage Web site at http://www.cms.hhs.gov/mcd/index_list.asp?list_type=mcd_1.

Document Name: Factors CMS Considers in Commissioning External Technology Assessments
Date of Issuance: April 11, 2006

Document Name: Factors CMS Considers in Opening a National Coverage Determination
Date of Issuance: April 11, 2006

Document Name: (Draft) Factors CMS Considers in Referring Topics to the Medicare Coverage Advisory Committee
Date of Issuance: March 9, 2005

Document Name: National Coverage Determinations with Data Collection as a Condition of Coverage: Coverage With Evidence Development
Date of Issuance: July 12, 2006

Addendum XI
List of Special One-Time Notices Regarding National Coverage Provisions
[January Through March 2008]

As medical technologies, the contexts under which they are delivered, and the health needs of Medicare beneficiaries grow increasingly complex, our national coverage determination (NCD) process must adapt to accommodate these complexities. As part of this adaptation, our national coverage decisions often include multi-faceted coverage determinations, which may place conditions on the patient populations eligible for coverage of a particular item or service, the providers who deliver a particular service, or the methods in which data are collected to supplement the delivery of the item or service (such as participation in a clinical trial).

We outline these conditions as we release new or revised NCDs. However, details surrounding these conditions may need to be shared with the public as "one-time notices" in the **Federal Register**. For example, we may require that a particular medical service may be delivered only in the context of a CMS-recognized clinical research study, which was not named in the NCD itself. We would then use Addendum XI of this notice, along with our coverage Web site at http://www.cms.hhs.gov/coverage, to provide the public with information about the clinical research study that it ultimately recognizes.

Addendum XI includes any additional information we may need to share about the conditions under which an NCD was issued as of the ending date of the period covered by this notice.

There were no Special One-Time Notices Regarding National Coverage

Provisions published this quarter.

Addendum XII-National Oncologic PET Registry (NOPR)

In January 2005, we issued our decision memorandum on **positron emission tomography** (PET) scans, which stated that CMS would cover PET scans for particular oncologic indications, as long as they were performed in the context of a clinical study. We have since recognized the National Oncologic PET Registry as one of these clinical studies. Therefore, in order for a beneficiary to receive a Medicare-covered PET scan, the beneficiary must receive the scan in a facility that participates in the Registry. The following facilities have met the CMS's requirements for performing PET scans under National Coverage Determination CAG-00181N.

Facility Name	Provider Number	Date Approved	State	Other Information
Barnes-Jewish Hospital Barnes-Jewish Plaza Mailstop # 90-72-374 St. Louis, MO 63110	E40080o	03/07/2006	MO	
Duke University Medical Center PET Facility Room 0402 Duke So. Durham, NC 27710	34003	03/07/2006	NC	Yellow Zone Box 3949
VCU Health System-Molecular Imaging Center Dept of Nuclear Medicine - North Hospital 7th Floor Richmond, VA 23298	490032	03/07/2006	VA	1300 East Marshall-PO Box 980001
Acadiana Oncologic Imaging 2311 Kaliste Saloom Lafayette, LA 70508	5CA64	03/06/2006	LA	
Adler Institute for Advanced Imaging 261 Old York Road Suite 106 Jenkintown, PA 19046		03/07/2006	PA	
Advanced Medical Imaging San Saba 215 N San Saba Suite 107 San Antonio, TX 78207	00BC90	03/07/2006	TX	
Advanced Medical Imaging	00BC90	03/07/2006	TX	

Stone Oak 540 Oak Centre Suite 100 San Antonio, TX 78258				
Advanced Radiological PET Imaging, PC 2334 30th Avenue Astoria, NY 11102	05677	03/07/2006	NY	Lower Level
Akron Regional PET Scan, LLC 3009 Smith Road Suite 350 Akron, OH 44333	AKID01691	03/07/2006	OH	
American Radiology Services-Owings Mills 21 Crossroads Drive, Suite 100 Owings Mills, MD 21117	434L	03/07/2006	MD	
American Radiology Services-Bethesda 6430 Rockledge Drive, Suite 100 Bethesda, MD 20817	G00000	03/07/2006	MD	
American Radiology Services-Waldorf 3510 Old Washington Road Suite 101 Waldorf, MD 20602	435L	03/07/2006	MD	
American Radiology Services-Columbia 8820 Columbia Parkway 100 Columbia, MD 21045	434L	03/07/2006	MD	
American Radiology Services-Frederick 141 Thomas Johnson Drive Suite 170 Frederick, MD 21702	435L	03/07/2006	MD	
American Radiology Services-Timonium 2080 York Road	434L	03/07/2006	MD	

Suite 160 Timonium, MD 21093				
Angel Williamson Imaging Center- Ft. Walton Beach 1013-D Mar-Walt Drive Ft. Walton Beach, FL 32547	39953A	03/07/2006	FL	
Angel Williamson Imaging Center-Pensacola 5120 Bayou Boulevard Suite 9 Pensacola, FL 32503	39953	03/07/2006	FL	
Edison Imaging Center 3900 Park Avenue Suite 107 Edison, NJ 08820	AS008835	03/07/2006	NJ	
Avon Medical Diagnostic Center 1480 Center Road Suite C Avon, OH 44011	MC4039571	03/07/2006	OH	
Baltimore Imaging Centers 3708 Mountain Road Pasadena, MD 21122	H476	03/07/2006	MD	
Baptist Hospital PET/CT 1000 West Moreno Street Pensacola, FL 32501	100093	03/07/2006	FL	
Bethesda Health City 2623 S Seacrest Boulevard Boynton Beach, FL 33435	40237	03/07/2006	FL	
PET/CT Imaging at White Marsh 9900 Franklin Square Drive Suite D Nottingham, MD 21236	FMNX01	03/07/2006	MD	
Biomedical Research Foundation PET Imaging Center 1505 Kings Highway Shreveport, LA 71103	5D914	03/07/2006	LA	

BodyScan of Louisville LLC 807 Shelbyville Road Suite 201 Louisville, KY 40222	9372701	03/07/2006	KY	
Bradley Regional PET Imaging Cleveland, TN 37311	3373976	03/07/2006	TN	2305 Chambliss Ave NW
PET Imaging Institute of NJ 1608 Rte 88 West Suite 302 Brick, NJ 08724	070684	03/07/2006	NJ	
Broward PET Imaging Center, LLC 4850 W. Oakland Park Boulevard Suite A Fort Lauderdale, FL 33313	E5709	03/07/2006	FL	
Camelback Imaging 15215 S. 48th Street, #110 Phoenix, AZ 85044	100488	03/07/2006	AZ	
California Imaging and Treatment Center 3000 Oak Road, #111 Walnut Creek, CA 95497	ZZZ27175Z	03/07/2006	CA	
Cancer Care Centers of Brevard 1430 S Pine Street Melbourne, FL 32901	39835	03/07/2006	FL	
Center for Medical Imaging-Florida Hospital. 1922 Salk Avenue Tavares, FL 32778	100057	03/07/2006	FL	

Cancer Center of Colorado Springs 320 E. Fontanero Suite 200 Colorado Springs, CO 80907	79804	03/07/2006	CO	
Centro Sononuclear de Rio Piedras 1028 Los Angeles Street. San Juan, PR 00926	83910	03/07/2006	PR	
Chattanooga Imaging East 1710 Gunbarrel Road Chattanooga, TN 37421	3716643	03/07/2006	TN	
Chester County PET Associates 701 East Chester Marshall Street West Chester, PA 19380	085698	03/07/2006	PA	
Cincinnati PET Scan, LLC-Kenwood 7730 Montgomery Road Suite 120 Cincinnati, OH 45236	311754291	03/07/2006	OH	
Cincinnati PET Scan, LLC Monfort Heights 5575 Cheviot Road Cincinnati, OH 45247	311754291	03/07/2006	OH	
Clinical PET of Hernando 4003 Mariner Boulevard Spring Hill, FL 34609	L13228	03/07/2006	FL	
Clinical PET of Citrus 6140 W Corporate Oaks Drive Crystal River, FL 34429	U0121	03/07/2006	FL	

Clinical PET of Lake City 484 SW Commerce Drive Suite 145 Lake City, FL 32025	V2683	03/07/2006	FL	
Clinical PET of Ocala 3143 SW 32nd Avenue, Suite 100 Ocala, FL 34474	E7179	03/07/2006	FL	
Columbus Regional Hospital 2400 East 17th Street Columbus, IN 47201	150112	03/07/2006	IN	
Concord Imaging 18802 Meisner Drive San Antonio, TX 78258	00126Z	03/07/2006	TX	
Dartmouth Hitchcock Medical Center One Medical Center Drive. Lebanon, NH 03756		03/07/2006	NH	
Dedicated PET Imaging 2315 Sunset Boulevard, Suite E Steubenville, OH 43952	01181	03/07/2006	OH	
Diablo Valley Oncology & Hematology Medical Group 3000 Oak Road, #111 Walnut Creek, CA 94597	ZZZ26796Z	03/07/2006	CA	
Diagnostic Imaging at Baywalk 129 1st Avenue N St. Petersburg, FL 33701	00022	03/07/2006	FL	
DMS Imaging 2101 N. University Drive Fargo, ND 58109		03/07/2006	ND	PO Box 8070
Doylestown PET Associates 599 W. State Street Doylestown, PA 18901	059536	03/07/2006	PA	Suite 202
East Bay Medical Oncology-Hematology Assoc., Inc 3000 Oak Road, #111	ZZZ267792	03/07/2006	CA	

Walnut Creek, CA 94597				
East River Medical Imaging 519 East 72 Street Suite 103 New York, NY 10021	W11781	03/07/2006	NY	
El Camino Imaging Center 8020 Constitution Place NE Albequerque, NM 87110	237150	03/07/2006	NM	
Elite Imaging, LLC 2845 Aventura Boulevard Suite 145 Aventura, FL 33180	K3535	03/07/2006	FL	
EPIC Imaging Center 233 NE 102nd Avenue Portland, OR 97220	0000WCGNQ	03/07/2006	OR	
Evergreen Radia 11521 NE 128th Street Kirkland, WA 98034	GAB39931	03/07/2006	WA	
Excel Diagnostics Imaging Clinics 9701 Richmond Avenue, Suite 122 Houston, TX 77042	FTA109	03/07/2006	TX	
First Imaging of the Carolinas 30 Memorial Drive Pinehurst, NC 29374	2346997	03/07/2006	NC	
Florida Hospital Advanced Nuclear Imaging PET 328 Spruce Street Orlando, FL 32804	100007	03/07/2006	FL	
Fort Jesse Imaging Center, LLC 2200 Fort Jesse Road Suite 120 Normal, IL 61761	209824	03/07/2006	IL	
Fox Chase Cancer Center 333 Cotman Avenue Philadelphia, PA 19111	390196	03/07/2006	PA	

Frederick Imaging Centers 46B Thomas Johnson Drive Frederick, MD 21702	H476	03/07/2006	MD	
Fusion Diagnostic Group, LLC 1700 California Street Suite 260 San Francisco, CA 94109	00G366470	03/07/2006	CA	
Fusion Imaging Institute 2419 E. Commercial Boulevard Suite 101 Ft. Lauderdale, FL 33308	18281	03/07/2006	FL	
Future Diagnostics Group 254 N. Republic Avenue Joliet, IL 60435	200825	03/07/2006	IL	
Greater Niagra PET, LLC 1 Columbia Drive Suite 3 Niagra Falls, NY 14305	BA0213	03/07/2006	NY	Witmer Park Medical Center
Hematology Oncology Associates of Baton Rouge 4950 Essen Lane Baton Rouge, LA 70809	5C696	03/07/2006	LA	
Gulf Coast Cancer & Diagnostic of Southeast 12811 Beamer Road Houston, TX 77089	149949301	03/07/2006	TX	
Henry Ford, Department of Radiology 2799 W. Grand Boulevard Detroit, MI 48202	230053	03/07/2006	MI	
High Point Regional Health System 601 N. Elm Street High Point, NC 27262	3400040	03/07/2006	NC	
Highlands Oncology Group 3232 N. North Hills Boulevard Fayetteville, AR 27203	5B823	03/07/2006	AR	
Holy Name Hospital	310008	03/07/2006	NJ	PET/CT Center

718 Teaneck Road Teaneck, NJ 07666				
Holy Family Memorial Medical Center PO Box 1450 Manitowoc, WI 54221	520107	03/07/2006	WI	2300 Western Ave
Hospital of Saint Raphael 1450 Chapel Street New Haven, CT 05611	070001	03/07/2006	CT	
San Patricio MRI & CT Center 1508 Roosevelt Avenue, Suite 103 San Juan, PR 00920	84997	03/07/2006	PR	
Imaging Center of Hartford Hospital 80 Seymour Street PO Box 5037 Hartford, CT 06102	070025	03/07/2006	CT	
Indian Wells PET/CT Center 74785 Highway 111, #101 Indian Wells, CA 92210	1264523891	03/07/2006	CA	
Imaging Technology Associates 3800 Reservoir Road NW Washington, DC 20007	FDNCX1	03/07/2006	DC	Gorman 2043, PET Scan
San Francisco Magnetic Resonance Center 1180 Post Street San Francisco, CA 94109	ZZZ27498Z	03/07/2006	CA	
Intermountain Medical Imaging 2929 E Magic View Drive Meridian, ID 83642	82-05144-22	03/07/2006	ID	
Jefferson Center City Imaging 850 Walnut Street Philadelphia, PA 19107	66277	03/07/2006	PA	

Kansas City Cancer Center-Kansas 12200 W. 110th Street Overland Park, KS 66210	5650000D	03/07/2006	KS	
Kansas City Cancer Center-Missouri 4881 Goodview Circle Lee's Summit, MO 66064	5650000E	03/07/2006	MO	
Kreitchman PET Center 180 Ft. Washington Avenue, HP3-315 New York, NY 10032	WEM661	03/07/2006	NY	
LakePointe PET 10914 Hefner Pointe Drive Suite 100 Oklahoma City, OK 73120	700522143	03/07/2006	OK	
Lakeshore PET Imaging, LLC 4932 W 95th Street Oak Lawn, IL 60453	200108	03/07/2006	IL	
Larchmont Imaging Associates, LLC 210 Ark Road Mt. Laurel, NJ 08054	517216	03/07/2006	NJ	
Las Cruces PET/CT Imaging 1121 Mall Drive Suite D Las Cruces, NM 88011	300521065	03/07/2006	NM	
Lehigh Valley Diagnostic Imaging PET/CT 1230 S. Cedar Crest Boulevard Suite 104 Allentown, PA 18103	563802	03/07/2006	PA	
LifeScan Louisville, LLC 4046 Dutchmans Lane Louisville, KY 40207	9365601	03/07/2006	KY	
Limerick PET Associates 420 W. Linfield-Trappe Road Limerick, PA 19468	075015	03/07/2006	PA	Suite 3400, Third Floor, Rear

LifeScan Minnesota 6525 France Avenue S Suite 225 Edina, MN 55435	470000014	03/07/2006	MN	
Louisiana PET Imaging of Alexandra, LLC 5419 A Jackson Street Exit Alexandria, LA 71303	5C743	03/07/2006	LA	
LMR PET 12600 Creekside Lane Ft. Meyers, FL 33919	E5725	03/07/2006	FL	
Louisiana PET Imaging of Lake Charles, LLC 1750 Ryan Street Lake Charles, LA 70601	5C905	03/07/2006	LA	
Insight Diagnostic Center-Forest Lane 11617 N. Central Expressway, #132 Dallas, TX 75243	FTA016	03/07/2006	TX	
MDI of Thousand Oaks 300 Lombard Street Thousand Oaks, CA 91360	W14186	03/07/2006	CA	
Meadowbrook PET Associates 1695 Huntington Pike Meadowbrook, PA 19046	064866	03/08/2006	PA	
Medical Imaging of Baltimore 6715 N. Charles Street Baltimore, MD 21204	258L	03/08/2006	MD	

Metabolic Imaging of Laredo 2344 Laguna Del Mar Suites 5 & 6 Laredo, TX 78045	FTN029	03/08/2006	TX	
Methodist Hospital PET Imaging Center 301 W. Huntington Drive Suite 120 Arcadia, CA 91007	9511643336	03/08/2006	CA	
Metro Region PET Center at Chevy Chase 5454 Wisconsin Avenue Suite 810 Chevy Chase, MD 20815	724811	03/08/2006	MD	
Clinical PET of St. Charles County 1475 Kisker Road St. Charles, MO 63304	000047047	03/08/2006	MO	
Metro Region PET Center at Woodburn Nuclear Medicine 3289 Woodburn Road Annandale, VA 22003	724811	03/08/2006	VA	
Michiana Hematology-Oncology, PC 100 Navarre Place Suite 5550 South Bend, IN 46601	216950	03/08/2006	IN	
Michigan State University-Radiology 184 Radiology Building East Lansing, MI 48824	OC36350	03/08/2006	MI	
Clinical PET of West County 450 N. New Ballas Road Creve Coeur, MO 63141	000093043	03/08/2006	MO	

Modality Integration Services, Inc. 1854 SW Greenway Circle West Linn, OR 97068		03/08/2006	OR	
Molecular Imaging Center 1733 Curie Drive Suite 305 El Paso, TX 79912	00315U	03/08/2006	TX	
Molecular Imaging of Suburban Chicago, LLC 908 N. Elm Street Suite 110 Hinsdale, IL 60521	212300	03/08/2006	IL	
Montclair Road Imaging LLC 924 Montclair Road Suite 108 Birmingham, AL 35213	000056277	03/08/2006	AL	
Montefiore Medical Center 1695A Eastchester Road Bronx, NY 10461	W06552	03/08/2006	NY	
Neurodiagnostics, PSC 1725 Harrodsburg Road Suite 100 Lexington, KY 40504	0406	03/08/2006	KY	
New Century Imaging 555 Kinderkamack Road Oradel, NJ 07649	085146	03/08/2006	NJ	
Newport Diagnostic Center 1605 Avocado Avenue Newport Beach, CA 92660	W13396	03/08/2006	CA	

Next Generation Radiology PET/CT 560 Northern Boulevard Suite 111 Great Neck, NY 11021	WR6091	03/08/2006	NY	
North Valley MRI and CT 1638 Esplanade Chico, CA 95926	ZZZ247802	03/08/2006	CA	
Northwest Alabama Cancer Center Radiology Services 302 W. Dr. Hicks Boulevard Florence, AL 35630	051552219	03/08/2006	AL	
Northern Kentucky PET Scan, LLC 651 Centre View Boulevard Crestview Hills, KY 41017	311754291	03/08/2006	KY	
Northwest Cancer Center 17323 Red Oak Drive Houston, TX 77090	00D29C	03/08/2006	TX	
Northwestern Memorial Hospital 251 East Huron Street Chicago, IL 60611	140281	03/08/2006	IL	Galter 8-113
Northern Shared Medical Services-Atlantic, IA 1501 East Tenth Street Atlantic, IA 50022	I16068	03/08/2006	IA	Cass County Memorial Hospital
Northern Shared Medical Services-Audubon, IA 515 Pacific Street Audubon, Iowa 50025	I16068	03/08/2006	IA	Audobon County Memorial Hospital
Northern Shared Medical Services- Beloit, KS 400 West Eighth Beloit, KS 67420	130618	03/10/2006	KS	Mitchell County Hospital
Northern Shared Medical Services-Bloomfield, IA	I16068	03/10/2006	KS	Davis County Hospital

507 North Madison Street Bloomfield, IA 52537				
Northern Shared Medical Services-Carrollton, MO 1502 North Jefferson Carrollton, MO 64633	000047013	03/10/2006	MO	Carroll County Memorial Hospital
Northern Shared Medical Services-Centerville, IA 1st St. Joseph Drive Centerville, IA 52544	I16068	03/10/2006	IA	Mercy Medical Center
Northern Shared Medical Services-Carthage, IL 160 S. Adams Street Carthage, IL 62321	208196	03/10/2006	IL	Memorial Hospital
Northern Shared Medical Services-Clarinda, IA 823 S. 17th Street Clarinda, IA 51632	I16068	03/10/2006	IA	Clarinda Regional Health Center
Northern Shared Medical Services-Chanute, KS 629 South Plummer Chanute, KS 66720	130618	03/10/2006	KS	Neosho Memorial Regional Medical Center
Northern Shared Medical Services-Edwardsville, IL 1121 University Drive Edwardsville, IL 62025	208196	03/10/2006	IL	Edwardsville Health Center
Northern Shared Medical Services- El Dorado, AR 700 West Grove Street. El Dorado, AR 71730	5F168	03/10/2006	AR	Medical Center of South Arkansas

Northern Shared Medical Services-Farmington, MO 1212 Weber Road Farmington, MO 63640	000047013	03/10/2006	MO	Mineral Area Regional Medical Center
Northern Shared Medical Services-Janesville, WI 1321 Creston Park Drive Janesville, WI 53545	000092420	03/10/2006	WI	Janesville Occupational Health & Medical Center
Northern Shared Medical Services-Hiawatha, KS 300 Utah Street Hiawatha, KS 66434	130618	03/10/2006	KS	Hiawatha Community Hospital
Northern Shared Medical Services-Keokuk, IA 1600 Morgan Street Keokuk, IA 52632	I16068	03/10/2006	IA	Keokuk Area Hospital
Northern Shared Medical Services-Macomb, IL 525 East Grant Street Macomb, IL 61455	208196	03/10/2006	IL	McDonough District Hospital
Northern Shared Medical Services-Mexico, MO 620 East Monroe Street Mexico, MO 65265	000047013	03/10/2006	MO	Audrain Medical Center
Northern Shared Medical Services-Moberly, MO 1515 Union Avenue Moberly, MO 65270	000047013	03/10/2006	MO	Moberly Regional Medical Center
Northern Shared Medical Services-Mountain Home, AR 899 Burnett Drive Mountain Home, AR 72653	5F168	03/10/2006	AR	Cogburn Cancer Clinic

Northern Shared Medical Services- Poplar Bluff, MO 221 Physicians Park Drive Poplar Bluff, MO 63901	000047013	03/10/2006	MO	Poplar Bluff Medical Partners
Northern Shared Medical Services-Perryville, MO 434 North West Street Perryville, MO 63775	000047013	03/10/2006	MO	Perry County Memorial Hospital
Northern Shared Medical Services- Rolla, MO 1000 West Tenth Street Rolla, MO 65401	000047013	03/10/2006	MO	Phelps Co Regional Medical Center
Northern Shared Medical Services-Virginia, MN 901 Ninth Street North Virginia, MN 55792	470000057	03/10/2006	MN	Virginia Regional Medical Center
Northern Shared Medical Services-Russellville, AR 2504 West Main Street Russellville, AR 72801	5F168	03/10/2006	AR	Russellville Land Co
Northern Shared Medical Services- West Plains, MO 1100 Kentucky Avenue West Plains, MO 65775	000047013	03/10/2006	MO	Ozarks Medical Center
Oakwood Hospital Medical Center 18101 Oakwood Boulevard Dearborn, MI 48124	230020	03/10/2006	MI	

Oakwood Southshore Medical Center 5450 Fort Street Trenton, MI 48183	230176	03/10/2006	MI	
Ocean Medical Imaging Center 21 Stockton Drive Toms River, NJ 08755	158432	03/10/2006	NJ	
Orange County Regional PET Center, LLC 16300 Sand Canyon Avenue Suite 103 Irvine, CA 92618	TP018	03/10/2006	CA	
Orange Advanced Imaging Center 230 Main Street, #101 Orange, CA 92868	TP016A	03/10/2006	CA	
Pacific Coast Imaging-Irvine 250 E Yale Loop Suite A Irvine, CA 92604	WG87478B	03/10/2006	CA	
Pacific Coast Imaging-Newport 3300 West Coast Highway Newport Beach, CA 92663	WG87478	03/10/2006	CA	
Pacific Imaging and Treatment Center 5395 Ruffin Road Suite 202 San Diego, CA 92123	TP126	03/10/2006	CA	
Palm Beach Cancer Institute 1395 State Road 7 Suite 310 Wellington, FL 33414	34754	03/10/2006	FL	
Pennsylvania PET Associates 800 Spruce Street Philadelphia, PA 19107	066282	03/10/2006	PA	Second Floor, Widener Building
PET Center of Western NY 127 North Street Batavia, NY 14020	187140	03/10/2006	NY	

Pet Imaging at CDR 7600 N 15th Street, Suite 102 Phoenix, AZ 85020	WCFDG	03/10/2006	AZ	
PET Imaging at the Lake 5000 Hennessy Boulevard Baton Rouge, LA 70809	5C868	03/10/2006	LA	
PET Imaging Center at Harford County 602 S Atwood Road Suite 201 Bel Air, MD 21014	FMN006	03/10/2006	MD	
PET Imaging Institute of South Florida- East 150 N 35th Avenue, 665 Hollywood, FL 33021	E3783	03/10/2006	FL	
PET Imaging Institute of South Florida-West 603 N Flamingo Road S-155 Pembroke Pines, FL 33028	E3783	03/10/2006	FL	
PET Scan Arizona-Peoria 13460 N 94th Drive Suite J1 Peoria, AZ 85381	75400	03/10/2006	AZ	
PET Scan Arizona-Phoenix 6036 N 19th Avenue Suite 305 Phoenix, AZ 85015	66860	03/10/2006	AZ	
PET/CT Diagnostic Medical Imaging, PC 1200 Waters Place Suite M108 Bronx, NY 10461	W31091	03/10/2006	NY	
Precision Imaging 4416 East West Highway Suite 410 Bethesda, MD 20814	FMN005	03/10/2006	MD	
Preferred PET Imaging of	110693	03/10/2006	KS	

Kansas, LLC 928 N. St. Francis Street Wichita, KS 67214				
Premium Diagnostics Center 5319 Hoag Drive Suite 130 Elyria, OH 44035	ID01851	03/10/2006	OH	
PET Center Ft. Worth 800 W. Magnolia Avenue Fort Worth, TX 76104	0J062	03/10/2006	TX	Suite 100
Radiology Associates, LLP 6001 S. Staples Street Corpus Christi, TX 78413	00E816	03/10/2006	TX	
S. Arlington Imaging Center 4601 Matlock Road Arlington, TX 76018	0J062	03/10/2006	TX	
Radiology Group Imaging Center, LLC 1970 E. 53rd Street Davenport, IA 52807	16031	03/10/2006	IA	
PET/CT Scan Center Pembroke 11325 Pembroke Square Suite 116 Waldorf, MD 20603	521454775	03/10/2006	MD	
New York MedScan 751 Second Avenue New York, NY 10017	978701	03/10/2006	NY	
Rex Healthcare 4420 Lake Boone Trail Raleigh, NC 27607	340114	03/10/2006	NC	
San Fernando Regional PET Center 6855 Noble Avenue Van Nuys, CA 91405	TP078	03/10/2006	CA	
PET/CT Imaging Center of Northwest Florida 5149 North 9th Avenue Suite	U4696	03/10/2006	FL	

124 Pensacola, FL 32504				
Saint Joseph's Hospital-Nuclear Medicine 611 St. Joseph Avenue Marshfield, WI 54449	520037	03/10/2006	WI	
Shared PET Imaging, LLC-Brooklyn NY 6300 Eight Avenue Brooklyn, NY 11220	97Z661	03/10/2006	NY	
SC Cancer Specialists 25 Hospital Center Boulevard #301 Hilton Head Island, SC 29926	1285633289	03/10/2006	SC	
Shared PET Imaging, LLC-Granger IN 6901 N. Main Street Granger, IN 46530	232800	03/10/2006	IN	
University Hospital-Cincinnati Eden Avenue & Albert Sabin Way Cincinnati, OH 45219		03/10/2006	OH	
Shared PET Imaging, LLC - Marion OH 1050 Delaware Avenue Marion, OH 43302	ID01511	03/10/2006	OH	
Shared PET Imaging, LLC-Terre Haute IN 3702 South Fourth Street Terre Haute, IN 47802	201320	03/10/2006	IN	
South Jersey Radiology Associates, PA 100 Carnie Boulevard Suite B5 Voorhees, NJ 08043	S0429966	03/10/2006	NJ	
Southwest PET/CT Institute-Tucson 3503 N. Campbell Suite 155	1396736922	03/10/2006	AZ	

Tucson, AZ 85719				
Southwest PET/CT Institute-Yuma 1951 W. 25th Street Suite G Yuma, AZ 85364	106077	03/10/2006	AZ	
St. Francis Health Center 1700 SW 7th Street Topeka, KS 66606	17-0016	03/10/2006	KS	
Southwoods PET Scan, LLC 250 Debartolo Place Building B Youngstown, OH 44512	PCN05210036	03/10/2006	OH	
St. Louis PET Centers, LLC 12637 Olive Boulevard Creve Coeur, MO 63376	1861470734	03/10/2006	MO	
St. Vincent's PET Center, LLC 2660 10th Avenue S, POBI Suite 104 Birmingham, AL 35205	051555054	03/10/2006	AL	
Sun Molecular Imaging -Peoria 13090 N. 94th Drive #103 Peoria, AZ 85381	71585	03/10/2006	AZ	
Sun Molecular Imaging -Sun City West 13909 W Camino Del Sol, #101 Sun City West, AZ 85375	71585	03/10/2006	AZ	
Tarzana Advanced Imaging 5536 Reseda Boulevard Tarzana, CA 91356	TP051A	03/10/2006	CA	
The Methodist Hospital PET Center 6565 Fannin Street MBI-066 Houston, TX 77030	450358	03/10/2006	TX	
Texarkana PET Imaging	FTN008	03/10/2006	TX	

Institute, LP 1929 Moores Lane Texarkana, TX 75503				
The PET/CT Center of North Florida 5742 Booth Road Jacksonville, FL 32207	K7038P	03/10/2006	FL	
The Washington Hospital 155 Wilson Ave Washington, PA 15301	390042	03/10/2006	PA	
The PET/CT Scanning Center 235 18th Street, SE Hickory, NC 28602	2881788	03/10/2006	NC	
Thompson Cancer Survival Center PET Imaging Center 9711 Sherrill Boulevard Knoxville, TN 37923	3791106	03/10/2006	TN	
Thunderbird MRI and PET Center 6591 W. Thunderbird Road Suite A-1 Glendale, AZ 85306	79467	03/10/2006	AZ	
Tower Imaging Roxsan 465 N. Roxbury Drive Suite 101 Beverly Hills, CA 90210	TP114	03/10/2006	CA	
Tower Hematology Oncology Medical Group 9090 Wilshire Boulevard Suite 200 Beverly Hills, CA 90211	W11793	03/10/2006	CA	
TRA Medical Imaging 2202 S Cedar Suite 200 Tacoma, WA 98405	001055600	03/10/2006	WA	

Trident PET of Fayette 1275 Highway 54 West Suite 102 Fayetteville, GA 30214	47BBBJJ	03/10/2006	GA	
Trident PET of Gwinnett 545 Old Norcross Road Lawrenceville, GA 30045	47BBBGX	03/10/2006	GA	Suite 200
Trident PET of Savannah 7135 Hodgson Memorial Drive Savannah, GA 31406	47BBBKP	03/10/2006	GA	Suite 10A
Tristan Associates 4520 Union Deposit Road Harrisburg, PA 17111	112344	03/10/2006	PA	
Union Square Diagnostic Imaging 144 Fourth Avenue New York, NY 10003	WR7502	03/10/2006	NY	
UCLA–Dept. of Molecular & Medical Pharmacology 10833 Le Conte Avenue Los Angeles, CA 90095	HW13029	03/10/2006	CA	AR-115-CHS
UCLA-Dept. of Molecular & Medical Pharmacology 10833 Le Conte Avenue Los Angeles, CA 90095	HW13029	03/10/2006	CA	AR-115-CHS
University Nuclear Medicine, Inc. 105 Parker Hall Buffalo, NY 14214	14414A	03/10/2006	NY	3435 Main St
University Radiology Group 75 Veronica Avenue Suite 102 Somerset, NJ 08873	425699	03/10/2006	NJ	
Anne Arundel Medical Center 2001 Medical Parkway Annapolis, MD 21401	210023	03/10/2006	MD	
US Imaging Center Corp., LLC	U0331	03/10/2006	FL	

842 Sunset Lake Boulevard Suite 301 Venice, FL 34292				
USC PET Imaging Science Center 1510 San Pablo Street Suite 350 Los Angeles, CA 90033	W11874	03/10/2006	CA	
Rolling Oaks Radiology 415 Rolling Oak Drive, Suite 160 Thousand Oaks, CA 91361	W10746	03/10/2006	CA	
Vero Radiology Associates, Inc. 777 37th Street Suite A-103 Vero Beach, FL 32960	97445	03/10/2006	FL	
Ventura Coast Imaging Center 4601 Telephone Road Suite 101 Ventura, CA 93003	W11335	03/10/2006	CA	
Washington Imaging Services, LLC 1135-116th Avenue, NE Bellevue, WA 98004	GAB23386	03/10/2006	WA	
Washington Hospital Center 110 Irving Street, NW Washington, DC 20010	090011	03/10/2006	DC	
Washoe Med Imaging Services at 75 Kirman 75 Kirman Avenue Reno, NV 89502	WCHBB	03/10/2006	NV	
Wesley Long Hospital-Moses Cone Health System 501 North Elam Avenue Greensboro, NC 27403	34-0091	03/10/2006	NC	
Westcoast Radiology 36463 US Highway, 19 N. Palm Harbor, FL 34684	E4187	03/10/2006	FL	

Western Washington Oncology 4525 3rd Avenue SE Lacey, WA 98503	1497749642	03/10/2006	WA	
Windber Medical Center 600 Somerset Avenue Windber, PA 15963	390112	03/10/2006	PA	
Wyoming Valley PET Associates 190 Welles Street Forty Fort, PA 18704	045012	03/10/2006	PA	
Youngstown Regional PET Scan 850 McKay Court Youngstown, OH 44512	Y0ID0174	03/10/2006	OH	
X-RAY Associates at Santa Fe 490 A West Zia Road Suite 130 Santa Fe, NM 87505	2258263	03/10/2006	NM	
Sibley Memorial Hospital 5255 Loughboro Road, NW Washington, DC 20016	090005	03/10/2006	DC	
Lerman Diagnostic Imaging 6511 Fort Hamilton Parkway Brooklyn, NY 11215	16H771	03/10/2006	NY	
XRC Medical Imaging 53940 Carmichael Drive South Bend, IN 46635	187390	03/10/2006	IN	
St. Luke's Hospital 1026 A. Avenue N.E. Cedar Rapids, IA 52406-3026	160045	03/10/2006	IA	P.O. Box 3026

University Imaging at Science Park 110 Science Parkway Suite 100 Rochester, NY 14620	16624A	03/10/2006	NY	
Kadlec Medical Center/Nuclear Medicine Dept. 945 Goethals Street Richland, WA 99352	1972507580	03/10/2006	WA	
Central Georgia PET, LLC 1650 Hardmon Macon, GA 31201	47BBBKC	03/10/2006	GA	
PET/CT Imaging at Swedish Cancer Institute 1221 Madison Street First Floor Seattle, WA 98104	8857387	03/10/2006	WA	
National PET Scan Duval, LLC 425 North Lee Street Jacksonville, FL 32204	E7348	03/10/2006	FL	
National PET Scan Pinellas, LLC 805 Executive Center Drive W St. Petersburg, FL 33702	E7503	03/10/2006	FL	
National PET Scan Dade, LLC 7867 North Kendall Drive Suite 121 Miami, FL 33156	E5427	03/10/2006	FL	
National PET Scan Broward, LLC 6290 North Federal Highway Fort Lauderdale, FL 33308	E5432	03/10/2006	FL	
Scottsdale Medical Imaging, Ltd. 7624 E. Indian School Road Suite 109-1 Scottsdale, AZ 85251	WCFKX	03/10/2006	AZ	
Lakes Regional General	300005	03/10/2006	NH	

Hospital 80 Highland Street Laconia, NH 03246				
Northern California PET Imaging Center 3195 Folsom Boulevard Sacramento, CA 95816	ZZZ15725Z	03/10/2006	CA	
Northern California PET Imaging Center-Mobile 3195 Folsom Boulevard Sacramento, CA 95816	ZZZ25157Z	03/10/2006	CA	
Northern California PET Imaging Center-VAPA 3801 Miranda Avenue Palo Alto, CA 94304	ZZZ21308Z	03/10/2006	CA	
Advanced Medical Imaging 3548 Route 9 South Old Bridge, NJ 08857	595865	03/10/2006	NJ	
St. Vincent Infirmary Medical Center PET/CT Center 2 St. Vincent Circle Little Rock, AR 72205-5499	04-0007	03/10/2006	AR	
Lincoln Trail Diagnostics 1111 Woodland Drive Elizabethtown, KY 42701	470001408	03/10/2006	KY	
LifeScan Imaging 607 Clifty Street Somerset, KY 42503	7614	03/10/2006	KY	

St. John's Hospital Springfield Nuclear Medicine 1235 E. Cherokee Street Springfield, MO 65804	26-0065	03/10/2006	MO	
City of Hope 1500 E. Duarte Road Duarte, CA 91010	050146	03/10/2006	CA	Dept. of Nuclear Medicine
Hackettstown Regional Medical Center 651 Willow Grove Street Hackettstown, NJ 07840	310115	03/10/2006	NJ	
Imaging Alliance-Nashville PET, LLC 52 White Bridge Road. Nashville, TN 37205	3791068	03/10/2006	TN	
Molecular Imaging of Bradenton 2301 60th Street Court West Suite A Bradenton, FL 34209	U1334	03/10/2006	FL	
Molecular Imaging of Charlotte County 4130 Tamiami Trail Port Charlotte, FL 33952	U1934	03/10/2006	FL	
Imaging For Life 3830 Bee Ridge Road Suite A Sarasota, FL 34233	E6704	03/10/2006	FL	
Seattle Nuclear Medicine/Ultrasound Associates 1229 Madison Street Suite 1050 Seattle, WA 98104	G000158400	03/10/2006	WA	
Columbus Circle Imaging 1790 Broadway, 9th Floor Yonkers, NY10704	W00691	03/10/2006	NY	
Bryn Mawr Imaging Center-PET 100 Lancaster Avenue	473120	03/10/2006	PA	

Wynnewood, PA 19096				
Beth Israel Deaconess Medical Center 330 Brookline Avenue Boston, MA 02215	220086	03/10/2006	MA	
Boca Raton Community Hospital 800 Meadows Road Boca Raton, FL 33486	100168	03/10/2006	FL	
Centro Tomograficio de PR, Inc. 1409 Ashford Avenue San Juan, PR 00907	0087834	03/10/2006	PR	
Comprehensive Cancer Centers of Nevada 3730 S. Easton Las Vegas, NV 89109	WCHCX	03/10/2006	NV	
Grossman Imaging Center of CMH 2151 E. Gonzales Road Suite 101 Oxnard, CA 93036	W17252	03/10/2006	CA	
Cookeville Regional Medical Center 142 W. 5th Street Cookeville, TN 38501	440059	03/10/2006	TN	
Instituto Central de Diagnostico, Inc. 1er. Floor Oncologic Hospital San Juan, PR 00928	007835	03/10/2006	PR	PR Medical Center
Mercy Medical Center-Cedar Rapids 701 Tenth Street SE Cedar Rapids, IA 52403	16-0079	03/10/2006	IA	
Midwest Radiologic Imaging-1144217241 4087 Gateway Boulevard Newburgh, IN 47630	1144217241	03/10/2006	IN	

Miami Valley Hospital 1 Wyoming Street Dayton, OH 45409	360051	03/10/2006	OH	
Midwest Radiologic Imaging-214790 4087 Gateway Boulevard Newburgh, IN 47630	214790	03/10/2006	IN	
Midwest Regional PET/CT Center 6001 S. Sharon Avenue Suite #2 Sioux Falls, SD 57108	41406	03/10/2006	SD	
Mission Hospital PET Center 222 Asheland Avenue Asheville, NC 28801	3400002	03/10/2006	NC	
Mobile Molecular Imaging, LLC 100 Memorial Hospital Drive Suite 1E Mobile, AL 36608	1003804345	03/10/2006	AL	
Nebraska Health Imaging 7819 Dodge Street Omaha, NE 68114	098975	03/13/2006	NE	
Montgomery Metabolic & Memory Imaging Center 7100 University Ct. Montgomery, AL 36117	057554625	03/13/2006	AL	
Orange County Diagnostic Radiology, Inc. 17150 Euclid Street Suite 101 Fountain Valley, CA 92708	TD057	03/13/2006	CA	
Northwest PET Imaging 265 N. Broadway Portland, OR 97227	105512	03/13/2006	OR	
Nevada Cancer Institute Medical Group One Breakthrough Way, 10441 W. Twain Avenue	100505	03/13/2006	NV	

Las Vegas, NV 89135				
Positron Emission Tomography Institute at Hampton 5357 Henneman Drive Norfolk, VA 23513	FVN001	03/13/2006	VA	
Positron Imaging Facility 1311 Record Crossing Road Mail Code 9140 Dallas, TX 75235	UT000F626	03/13/2006	TX	
Premier Diagnostic Imaging 10019 Forest Green Boulevard Louisville, KY 40299	9375201	03/13/2006	KY	
Positron PET/CT of the Southern Tier 169 Riverside Drive Binghamton, NY 13905	AA1047	03/13/2006	NY	
Radiology Regional Center, PA, Inc.-Naples 700 Goodlette Road Naples, FL 34102	77185	03/13/2006	FL	
Somascan Plaza, Inc. Suite 405 Torre de Plaza Plaza Las Americas San Juan, PR 00917	0089178	03/13/2006	PR	
Somascan, Inc. Jose Marti #56 San Juan, PR 00917	0082435	03/13/2006	PR	
Southern Indiana Radiological Associates 500 Landmark Avenue Bloomington, IN 47403	214160	03/13/2006	IN	
Southern Illinois Cancer Center 10286 Fleming Road Carterville, IL 62918	643740	03/13/2006	IL	
South Nassau PET One Healthy Way Oceanside, NY 11572	97z851	03/13/2003	NY	

Southwest Diagnostic Center for Molecular Imaging 8440 Walnut Hill Lane Suite 100 Dallas, TX 75231	FTN-015	03/13/2006	TX	
St. Mary's Health Systems 900 E. Oakhill Avenue Knoxville, TN 37917	440120	03/13/2006	TN	
Tower Diagnostic Center 4719 N. Habana Avenue Tampa, FL 33614	00169	03/13/2003	FL	
Torrance Morial Medical Center 3330 Lomita Boulevard Torrance, CA 90505	050351	03/13/2006	CA	
University of Colorado Hospital (AOP) 1635 N. Ursula Street Aurora, CO 80045	06-0024	03/13/2006	CO	
William Beaumont Hospital-Royal Oak 3601 West 13 Mile Road Royal Oak, MI 48073-6769	23030	03/13/2006	MI	
Esther Quijoy Catalya, M.D. 3000 Oak Road #111 Walnut Creek, CA 94597	00A449120	03/13/2006	CA	
Valley PET Institute 311 S. Ham Lane Lodi, CA 95242	00C283720	03/13/2006	CA	
Dan Ben-Zeev, M.D. 3000 Oak Road #111 Walnut Creek, CA 94597	00G129831	03/13/2006	CA	
Midwest Center for Advanced Imaging 1307 Macom Drive Naperville, IL 60564	L72461	03/13/2006	IL	
Crittenton Hospital Medical	230054	03/13/2006	MI	

Center 1101 W. University Drive Rochester, MI 48307				
Medical Specialists of Palm Beaches, Inc. 5700 Lake Worth Road Suite 204 Lake Worth, FL 33463	33941A	03/13/2006	FL	
PET Medical Imaging Center 3264 North Evergreen Drive Grand Rapids, MI 49525	0P02650	03/13/2006	MI	
Radiology Regional Center, PA, Inc.-RPET 6100 Winkler Road Suite A Fort Myers, FL 33919	77185	03/13/2006	FL	
Good Samaritan Hospital 520 S. 7th Street Vincennes, IN 47591	150042	03/13/2006	IN	
Central Indiana Cancer Center 6845 Rama Drive Indianapolis, IN 46219	065910	03/13/2006	IN	
Decatur PET Imaging 2774 W. Decatur Road Decatur, GA 30033	47BBBLP	03/13/2006	GA	
Community Memorial Hospital, Medical Imaging 855 S. Main Street Oconto Falls, WI 54154	00439MPN	03/13/2006	WI	
Olympic Radiology 2700 Clare Avenue Bremerton, WA 98310	000242100	03/13/2006	WA	
Capitol Imaging 3161 L Street Sacramento, CA 95816	1285615294	03/13/2006	CA	
National Medical Imaging-Bryn Mawr	024513	03/13/2006	PA	

574 W. Lancaster Avenue Bryn Mawr, PA 19010				
National Medical Imaging-Langhorne 2 Doublewoods Road Suite B Langhorne, PA 19047	024513	03/13/2006	PA	
National Medical Imaging-Philadelphia 1903-05 South Broad Street Philadelphia, PA 19148	024513	03/13/2006	PA	
University of VA Health System, Radiology 1215 Lee Street Charlottesville, VA 22908	490009	03/13/2006	VA	
Florida Institute for Advanced Diagnostic Imaging 9238 US 19 Port Richey, FL 34668	59-3475930	03/13/2006	FL	
Roseville PET & Nuclear Medicine Imaging 2241 Douglas Boulevard #110 Roseville, CA 95661	1194706689	03/13/2006	CA	
Memorial Sloan Kettering Cancer Center 1275 York Avenue New York, NY 10021	330154	03/13/2006	NY	
Northeast PET Imaging Center 8400 Roosevelt Boulevard Suite 208 Philadelphia, PA 19152	083723	03/13/2006	PA	Medical Arts Center at Parte Ridge
UAMS PET Center 4301 West Markham Street Little Rock, AR 72205	50528	03/13/2006	AR	

Joliet Oncology-Hematology Assoc., Ltd. 1600 W. Route 6 Morris, IL 60450	205474	03/13/2006	IL	
Saint Luke's Hospital 4323 Wornall Road Kansas City, MO 64111	26-0138	03/13/2006	MO	AH Peet Center
Mercy Medical Center 1320 Mercy Drive Canton, OH 44708	360070	03/13/2006	OH	
Dayton Medical Imaging Center 7901 Schatz Pointe Drive Dayton, OH 45459	US1D00231	03/13/2006	OH	
Community Radiology of Virginia 2000 Leatherwood Lane Bluefield, VA 24605	FVA002	03/13/2006	VA	
Bab Radiology-Huntington 75 East Main Street Huntington, NY 11743	W1L612	03/13/2006	NY	
Bab Radiology-Hauppauge 521 Route 111 Suite 312 Hauppauge, NY 11788	W1L601	03/13/2006	NY	
Center for Diagnostic Imaging-37 5775 Wayzata Boulevard #190 St. Louis Park, MN 55416	470000037	03/13/2006	MN	
Center for Diagnostic Imaging 5775 Wayzata Boulevard Suite 190 St. Louis Park, MN 55416	C01307	03/13/2006	MN	
Center for Diagnostic Imaging-Mendota Heights 910 Sibley Memorial Highway Mendota Heights, MN 55118	470000038	03/13/2006	MN	
Huntsville Hospital Imaging	010039	03/13/2006	AL	

Center 1963 Memorial Parkway Huntsville, AL 35801				
Long Beach PET Imaging Center 2888 Long Beach Boulevard Suite 110 Long Beach, CA 90806	TG167	03/13/2006	CA	
Highway Imaging Associates, LLP 2095 Flatbush Avenue Brooklyn, NY 11234	W10671	03/13/2006	NY	
St. Vincent Hospital PO Box 13508 Green Bay, WI 54307	520075	03/13/2006	WI	
Park South Imaging Center 6215 21st Avenue West #A Bradenton, FL 34209	E1858	03/13/2006	FL	
Mary Bird Perkins Cancer Center 4950 Essen Lane Baton Rouge, LA 70809	57290	03/13/2006	LA	
Boston Diagnostic Imaging 398 Altamonte Drive Altamonte Springs, FL 32701	E3510	03/13/2006	FL	
Sioux Valley Hospital Medical Center 1305 W. 18th Street Sioux Falls, SD 57117	430027	03/13/2000	SD	
Indianapolis Regional PET Scan, LLC 3830 Shore Drive Indianapolis, IN 46254	207260	03/13/2006	IN	

St. Joseph's PET Center 1 Mercy Lane Suite 105 Hot Springs, AR 71913	5C739	03/13/2006	AR	
Hinsdale PET Scan, LLC 812 Ogden Avenue Westmont, IL 60559	206271	03/13/2006	IL	
Del Amo PET Imaging Center 3531 Fashion Way Torrance, CA 90501	TP120	03/13/2006	CA	
North Shore PET Imaging Center 85 Herrick Street Beverly, MA 1915	327110	03/13/2006	MA	Beverly Hospital
Robert D. Russo & Associates Radiology, PC PO Box 6128 Bridgeport, CT 06606	C02013	03/13/2006	CT	
Advanced Medical Specialties 9035 Sunset Drive Suite 102 Miami, FL 33173	K7806	05/03/2006	FL	
Baptist M & S Imaging Center-Downtown 215 E. Quincy Street #100 San Antonio, TX 78215	FTA078	05/03/2006	TX	
Community Cancer Center 545 W. Umpqua Street Roseburg, OR 97470	R116571	05/03/2006	OR	
Baptist M & S Imaging Center 7888 Fredericksburg Road San Antonio, TX 78228	FTA078	05/03/2006	TX	

Evanston Northwestern Healthcare-Highland Park 757 Park Avenue West Highland Park, IL 60035	14-0010	05/03/2006	IL	
Grenada Diagnostic Radiology 1300 Sunset Drive Suite U Grenada, MS 38901	470000034	05/03/2006	MS	
Huntsman Cancer Hospital 2000 Circle of Hope Suite 2121 Salt Lake City, UT 84112-5550	460009	05/03/2006	UT	
High Tech Medical Park 11800 Southwest Highway Palos Heights, IL 60463	0703070	05/03/2006	IL	
Cyrus Diagnostic Imaging, Inc. 165 Waymont Court Lake Mary, FL 32746	40586	05/03/2006	FL	
Indiana Regional PET Imaging 7891 Broadway Suite A Merrillville, IN 46410	229400	05/03/2006	IN	
Lancaster PET Imaging 2100 Harrisburg Pike Lancaster, PA 17601	054504	05/03/2006	PA	
James PET/CT Imaging Center 236 Doan Hall Columbus, OH 43210	360242	05/03/2006	OH	410 w. 10th Ave
Mary Lanning Memorial Hospital 715 N. St. Joseph Avenue Hastings, NE 68901	280032	05/03/2006	NE	

Maplewood Cancer Center-MOHPA 1580 Beam Avenue Maplewood, MN 55109	C01828	05/03/2006	MN	
Titusville Area Hospital 406 W. Oak Street Titusville, PA 16354	390122	05/03/2006	PA	
Memorial Hospital 325 S. Belmont Street York, PA 17403	390101	05/03/2006	PA	
Mercy Regional Health Center 1823 College Avenue Manhattan, KS 66502	17-0142	05/03/2006	KS	
Northshore Regional PET Scan, LLC 1464 Waukegan Road Glenview, IL 60025	206272	05/03/2006	IL	
Northwest Indiana PET/CT Center 1505 S. Calument Road Suites 7 & 8 Chesterton, IN 46304	229810	05/03/2006	AL	
Parkway Ventures, Inc. 9000 Franklin Square Drive Baltimore, MD 21237	FMN002	05/03/2006	MD	Franklin Square Hospital
PET Fusion Imaging 3707 New Vision Drive Fort Wayne, IN 46845	190320	05/03/2006	IN	
River Oaks Imaging & Diagnostics PO Box 4346 Houston, TX 77210	FTA059	05/03/2006	TX	Dept 848
Regional PET Scan, LLC-Beachwood 2000 Auburn Road Beachwood, OH 44122	REID02211	05/03/2006	OH	

Regional PET Scan, LLC-Fairview 20455 Lorain Road Fairview Park, OH 44126	REID02211	05/03/2006	OH	
Regional PET Scan, LLC-Ridgepark 7575 Northcliff Avenue Brooklyn, OH 44144	REID02211	05/03/2006	OH	
Saint Francis Hospital 114 Woodland Street Hartford, CT 06105	07-0002	05/03/2006	CT	
St Nicholas Hospital 3100 Superior Avenue Sheboygan, WI 53081	520044	05/03/2006	WI	
Swedish Medical Center 501 E. Hampton Avenue Englewood, CO 80113	060034	05/03/2006	CO	
St Bernards PET Center 225 E. Jackson Avenue Jonesboro, AR 72401	5C658	05/03/2006	AR	
Toledo Regional PET Scan, LLC 3442 Granite Circle Toledo, OH 43617	T0ID01881	05/03/2006	OH	
University MRI 3848 F.A.U. Boulevard Suite 200 Boca Raton, FL 33431	E1765	05/03/2006	FL	
Tucson PET Imaging 5355 E. Erickson Drive Tucson, AZ 85712	WCBBM	05/03/2006	AZ	
Via Christi Oklahoma Regional Medical Center 1900 N. 14th Street Ponca City, OK 74601	370006	05/03/2006	OK	

Christian Hospital 11133 Dunn Road St Louis, MO 63136	260180	05/03/2006	MO	
DRA Imaging PC 1 Columbia Street Poughkeepsie, NY 12601	W18691	05/03/2006	NY	
Cleveland Clinic Star Imaging 921 Jasonway Avenue Columbus, OH 43214	34-1932969	05/03/2006	OH	
Norman PET Associates, LLC 3750 W. Robinson Street Suite 130 Norman, OK 73072	900522224	05/03/2006	OK	
Rhode Island PET Services–St. Josephs 200 High Service Avenue N Providence, RI 02904	479003556	05/03/2006	RI	
Rhode Island PET Services-South County Hospital 100 Kenyon Avenue Wakefield, RI 02879	479003556	05/03/2006	RI	
Rhode Island PET Services-Roger Williams 825 Chalkstone Avenue Providence, RI 02908	479003556	05/03/2006	RI	
Rhode Island PET Services-Landmark 115 Cass Avenue Woonsocket, RI 02895	479003556	05/03/2006	RI	
Forest City Diagnostic Imaging 735 Perryville Road Rockford, IL 61107	546450	05/03/2006	IL	Lower Level 2
New England Molecular Imaging-York 15 Hospital Drive York, ME 03909	479003556	05/03/2006	ME	
Pavilion Imaging	060023	05/03/2006	CO	

750 Wellington Avenue Grand Junction, CO 81502				
Lifescan Chicago 2242 W. Harrison Street Chicago, IL 600612	470000014	05/03/2006	IL	
Southeast Medical Imaging 300 Evergreen Drive Suite 210 Glen Mills, PA 19342	092801	05/03/2006	PA	
The Western Pennsylvania Hospital 4800 Friendship Avenue Pittsburgh, PA 15224	390090	05/03/2006	PA	
Southtowns PET/CT 550 Orchard Park Road West Seneca, NY 14224	14422A	05/03/2006	NY	
Main Street Radiology-Bayside 44-01 Francis Lewis Boulevard Bayside, NY 11361	04217	05/03/2006	NY	
Main Street Radiology-Bayside 44-01 Francis Lewis Boulevard Bayside, NY 11361	04217A	05/03/2006	NY	
West VA University Center for Advanced Imaging 1 Medical Center Drive Morgantown, WV 26506	9121131	05/03/2006	WV	PO Box 9236, Health Center South
Twin Lakes Medical Specialist, PA 228 Bucher Drive Mountain Home, AR 72653	5B019	05/03/2006	AR	
Valley Metabolic Imaging, LLC 6121 N Thesta Street Fresno, CA 93710	ZZZ23924Z	05/03/2006	CA	Suite 207

Johnson City Medical Center 400 North State of Franklin Johnson City, TN 37642	440063	05/03/2006	TN	
St Louis University Hospital 3665 Vista Avenue St Louis, MO 63110	000050109	05/03/2006	MO	
Margaret R. Pardee Memorial Hospital 800 North Justice Street Hendersonville, NC 28791	340017A	05/03/2006	NC	
Valley Imaging Partnership 1401 W. Merced Avenue #103 West Covina, CA 91790	TP035	05/03/2006	CA	
Sierra Imaging 155 Calle Portal Sierra Vista, AZ 85635	Z68496	05/03/2006	AZ	
Aspirus Wausau Hospital 333 Pine Ridge Boulevard Wausau, WI 54401	520030A	05/03/2006	WI	
Cancer Care Northwest PET Center 910 W 5th Spokane, WA 99204	1922072081	05/03/2006	WA	Suite 130
PET/CT Imaging of North Texas 2900 North I-35 Denton, TX 76201	00088Y	05/03/2006	TX	Suite 119
Loyola University Health System 2160 S. First Avenue Maywood, IL 60153	140276	05/03/2006	IL	
St. Elizabeth Medical Center One Medical Village Drive Edgewood, KY 41017	180035	05/03/2006	KY	
Cleveland Clinic 9500 Euclid Ave Cleveland, OH 44195	9925511	05/03/2006	OH	
Ingalls Family Care Center	14-0191	05/03/2006	IL	

6701 159th Street Tinley Park, IL 60477				
PET Fusion Center 4204 Houma Boulevard Metairie, LA 70006	5CB31	05/03/2006	LA	
United Regional Medical Center 1001 McArthur Drive Manchester, TN 37355	440007	05/03/2006	TN	
Joel Bernstein, MD 5395 Ruffin Road Suite 202 San Diego, CA 92123	W18972	05/03/2006	CA	
Hasnat Ahmed, MD 5395 Ruffin Road Suite 202 San Diego, CA 92123	W18370	05/03/2006	CA	
Meridian North Imaging Center 12188 N. Meridian Street Carmel, IN 46280	026010	05/03/2006	IN	Suite 100
Cancer Center Oncology Medical Group 5395 Ruffin Road Suite 202 San Diego, CA 92123	W12245A	05/06/2006	CA	
Firelands Regional Medical Center 1101 Decatur Street Sandusky, OH 44870	360025	05/03/2006	OH	
United Radiology-Greenbelt PO Box 34979 West Bethesda, MD 20827	FMN007	05/03/2006	MD	
Richard Just, MD 5395 Ruffin Road Suite 202 San Diego, CA 92123	W16197	05/03/2006	CA	
Michael Kipper, MD 5395 Ruffin Road	A24091	05/03/2006	CA	

Suite 202 San Diego, CA 92123				
McLaren Regional Medical Center 401 S. Ballenger Highway Flint, MI 48532	230141	05/03/2006	MI	
United Radiology- Silver Spring PO Box 34979 West Bethesda, MD 20827	FMN007	05/03/2006	MD	
United Radiology-Rockville PO Box 34979 West Bethesda, MD 20827	FMN007	05/03/2006	MD	
St Mary's Health Center 6420 Clayton Road St Louis, MO 63117	260091	05/03/2006	MO	
Bay Regional Medical Center 1900 Columbus Avenue Bay City, MI 48708	230041	05/03/2006	MI	
Lapeer Regional Medical Center 1375 N. Main Street Lapeer, MI 48446	230193	05/03/2006	MI	
Scottsdale Medical Imaging, Ltd.- SW Diagnostics 9003 E. Shea Boulevard Scottsdale, AZ 85260	1902896236	05/03/2006	AZ	
Valley Medical Oncology Consultants, Inc. 3000 Oak Road #111 Walnut Creek, CA 94597	ZZZ29659Z	05/03/2006	CA	
Northwest Community Hospital 800 W Central Road Arlington Heights, IL 60005	36-2340313	05/03/2006	IL	
PET Imaging of Dallas 8333 Douglas Avenue C-20	FTN017	05/03/2006	TX	

Dallas, TX 75225				
PET Imaging of Dallas-Northeast 1250 R Northwest Highway Garland, TX 75041	FTN028	05/03/2006	TX	
St Joseph's Regional Medical Center 703 Main Street Paterson, NJ 07503	310019	05/03/2006	NJ	
PET Imaging of Houston 2493-A South Braeswood Houston, TX 77030	FTN010	05/03/2006	TX	
Goshen General Hospital 200 High Park Avenue Goshen, IN 46526	150026	05/03/2006	IN	
PET Imaging of ELMC 8550 West 38th Avenue Suite 102 Wheat Ridge, CO 80033	800665	05/03/2006	CO	
PET Imaging of Houston-Southeast 6021 Fairmont Parkway Suite 120 Pasadena, TX 77505	FTN030	05/03/2006	TX	
Peninsula Imaging, LLC 560 Riverside Drive Suite A104 Salisbury, MD 21801	481L	05/03/2006	AL	
Zwanger-Pesiri 126 Hicksville Road Massapequa, NY 11758	W13931	05/03/2006	NY	

Las Calinas PET Imaging, LLP 1110 Cottonwood Lane Irving, TX 75038	FTN019	05/03/2006	TX	Suite 220
Mt Carmel Regional Medical Center 1102 East Centennial Pittsburg, KS 66762	014041	05/03/2006	KS	
Iowa Blood & Cancer Care, PLC 855 A. Avenue NE Cedar Rapids, IA 52402	I6672	05/03/2006	IA	Medical Office Plaza, LL4
Hackensack University Medical Center 30 Prospect Avenue Hackensack, NJ 07601	310001	05/03/2006	NJ	
McLeod PET Imaging Center 800 East Cheves Street Florence, SC 29501	570370242001	05/03/2006	SC	Suite 170
St Alexius Medical Center 900 E. Broadway Avenue Bismarck, ND 58506	35-0002	05/03/2006	ND	PO Box 5510
Center for Diagnostic Imaging 1295 Orange Avenue Winter Park, FL 32789	K0097	05/03/2006	FL	
Charleston Radiologists, PA 9313 Medical Plaza Drive Charleston, SC 29406	1709	05/03/2006	SC	Suite 302
PET Imaging of Houston-West 9525 Katy Freeway Suite 102 Houston, TX 77024	FTN023	05/03/2006	TX	
University Hospitals of Cleveland 11100 Euclid Avenue Cleveland, OH 44106	36-0137	05/03/2006	OH	Mailstop BSHB5056
PET Imaging of Sugar Land	FTN027	05/03/2006	TX	

17320 W Grand Parkway S. Suite A Sugar Land, TX 77479				
PET Imaging of Oklahoma City 1000 N. Lincoln Boulevard Suite 250 Oklahoma City, OK 73104	800522283	05/03/2006	OK	
PET Imaging of Tulsa 6711 S. Yale, #104 Tulsa, OK 74136	400522320	05/03/2006	OK	
PET Imaging of The Woodlands 3091 College Park Drive Suite 340 The Woodlands, TX 77384	FTN021	05/03/2006	TX	
Tarrant Diagnostic Imaging 1121 8th Avenue Fort Worth, TX 76104	FTN012	05/03/2006	TX	
Wyandot Memorial Hospital 85 North Sandusky Avenue Upper Sandusky, OH 43351	361329	05/03/2006	OH	
Oregon Health & Science University 3181 SW Sam Jackson Park Road Portland, OR 97229	380009	05/03/2006	OR	
Saint John's Health System 2015 Jackson Street Anderson, IN 46016	150088	05/03/2006	IN	
Hudson Valley PET Imaging, LLC 160 North Midland Avenue Nyack, NY 10960	W1L903	05/03/2006	NY	
Kingston Diagnostic Center 167 Schwenk Drive Kingston, NY 12401	W1L921	05/03/2006	NY	

Appleton Medical Center 1818 N. Meade Street Appleton, WI 54911	520160	05/03/2006	WI	
St. Elizabeth Health Center 1044 Belmont Avenue Youngstown, OH 44501	360064	05/03/2006	OH	
Sinai Hospital of Baltimore 2401 West Belvedere Avenue Baltimore, MD 21215	210012	05/03/2006	MD	
Associates in Radiology of Plattsburgh, NY 762 Route 3 Suite 14 Plattsburgh, NY 12901	33572A	05/03/2006	NY	
Affiliated PET Systems-Rockville 9711 Medical Center Drive Rockville, MD 20850	FDNX01	05/03/2006	MD	
Lake Medical Imaging & Breast Center 1400 US Highway 441 North Suite 510 The Villages, FL 32159	59-3522082	05/03/2006	FL	
Affiliated PET Systems-Silver Spring 1400 Forest Glen Road Silver Spring, MD 20910	FDNX01	05/03/2006	MD	Suite 430
North Texas Clinical PET Institute 3535 Worth Street Suite 150 Dallas, TX 75246	99R339	05/03/2006	TX	
Lake Imaging Center 801 E. Dixie Avenue Suite 104 Leesburg, FL 34748	59-3635297	05/06/2006	FL	
Edwards Comprehensive Cancer Center	510055	05/03/2006	WV	

1400 Hal Greer Boulevard Huntington, WV 25701				
Allison Cancer Center 301 North N Street Midland, TX 79701	140414744	05/03/2006	TX	
Clinical PET of Leesburg 8525 US Highway 441 Leesburg, FL 34748	E7179A	05/03/2006	FL	
Greene Medical Imaging, PC 159 Jefferson Heights D-106 Catskill, NY 12414	W25021	05/03/2006	NY	
Caritas PET Imaging, LLC-Norwood Hosp 70 Walnut Street Foxboro, MA 02035	32-7092	05/03/2006	MA	Caritas Norwood Hospital - Foxboro Campus
Caritas PET Imaging, LLC-New England Medical Center 750 Washington Street Boston, MA 02111	32-7092	05/03/2006	MA	Tufts - New England Medical Center
Austin, Radiological Assn.-San Marcos 1348 B Highway 123 South San Marcos, TX 78666	74-1597116	05/03/2006	TX	
ARA Imaging-Rock Creek 2120 N Mays, #220 Round Rock, TX 78664	20-1651590	05/03/2006	TX	
ARA Imaging-Southwood 1701 W. Ben White Boulevard, #170 Austin, TX 78704	20-1651590	05/03/2006	TX	

Elkhart General Hospital 600 East Boulevard Elkhart, IN 46514	15-0018	05/03/2006	IN	
Austin, Radiological Assn.-Midtown 1301 W. 38th Street Suite 100 Austin, TX 78705	74-1597116	05/03/2006	TX	
Caritas PET Imaging, LLC-St. Elizabeth's 736 Cambridge Street Boston, MA 02135	32-7092	05/03/2006	MA	St. Elizabeth's Medical Center
Global PET Imaging, LLC 1800 Hollister Drive Suite G-10 Libertyville, IL 60048	309590	05/03/2006	IL	Grand Oaks Health Center
Caritas PET Imaging, LLC-Carney Hospital 2100 Dorchester Avenue Dorchester, MA 02124	32-7092	05/03/2006	MA	Caritas Carney Hospital
Caritas PET Imaging, LLC-Milton Hospital 92 Highland Street Milton, MA 02186	32-7092	05/03/2006	MA	
Caritas PET Imaging, LLC–St. Anne's Hospital 795 Middle Street Fall River, MA 02721	32-7087	05/03/2006	MA	St. Anne's Hospital
Caritas PET Imaging, LLC-Good Samaritan 235 North Pearl Street Brockton, MA 02301	32-7087	05/03/2006	MA	Caritas Good Samaritan Medical Center
Panhandle PET Imaging 6700 W. 9th Avenue Amarillo, TX 79106	TFN0007	05/03/2006	TX	

PET Imaging of San Francisco 1700 California Street Suite 480 San Francisco, CA 94109	ZZZ-223-782	05/03/2006	CA	
PET/CT Imaging of Berkeley 2855 Telegraph Avenue Suite 100 Berkeley, CA 94705	ZZZ-288-837	05/03/2006	CA	
Western Maryland Health System-Sacred Heart Campus 902 Seton Drive Cumberland, MD 21502	210027	05/03/2006	MD	Western Maryland Health System-Sacred Heart Campus
Desert PET Imaging, LLC 1180 N. Indian Cyn Drive Palm Springs, CA 92262	ZZZ28648Z	05/03/2006	CA	
First PET of Stockton 4744 Quail Lake Drive Stockton, CA 95207	00A484230	05/03/2006	CA	
Utah Cancer Specialist 3838 South 700 East Salt Lake City, UT 84106	57172	05/03/2006	UT	Suite 100
Washington Radiology Associates, PC 2121 K Street, NW Washington, DC 20006	WA409885	05/03/2006	DC	Suite T-120
New Rochelle Radiology Associates, PC 175 Memorial Highway New Rochelle, NY 10801	W05571	05/03/2006	NY	
North Little Rock PET Associates, LLC 3500 Springhill Drive North Little Rock, AR 72117	5F437	05/03/2006	AR	Suite 100

Advanced Imaging Concepts, PL 13063 Cortez Boulevard Brooksville, FL 34613	94774	05/03/2006	FL	
Mansfield Imaging Center 536 S. Trimble Road Mansfield, OH 44906	MAD10921	05/03/2006	OH	
West Tennessee Imaging Center 300 Coatsland Drive Jackson, TN 38305	44-0002	05/03/2006	TN	
Imaging Center of North Central Indiana, Inc. 2201 W. Boulevard Kokomo, IN 46902	224110	05/03/2006	IN	
University of Kansas Hospital 3901 Rainbow Boulevard Kansas City, KS 66160	17-00040	05/03/2006	KS	Division of Nuclear Medicine
PET Imaging of SWLA, LLC 600 Bayou Pines East Lake Charles, LA 70601	5CK63	05/03/2006	LA	Suite A
Community Imaging Partners of Frederick 67 Thomas Johnson Drive Frederick, MD 21702	980M	05/03/2006	MD	
Community Imaging Partners of Olney 18111 Prince Phillip Drive #T-20 Olney, MD 20832	409410	05/03/2006	MD	Community Imaging Partners
The West Clinic, PC 100 N. Humphreys Boulevard Memphis, TN 38120	3704066	05/03/2006	TN	
Imaging Central LLC 7111 W. Central Avenue Toledo, OH 43617	IMID01641	05/03/2006	OH	
Advanced Radiology-Dixon 291 Stoner Avenue	527L	05/03/2006	MD	

Westminster, MD 21157				
Advanced Radiology-Harford Imaging 104 Plumtree Road Bel Air, MD 21015	527L	05/03/2006	MD	Suite 106
Advanced Radiology-Cross Roads 4801 Dorsey Hall Road Ellicott City, MD 21042	527L	05/03/2006	MD	Suite 101
Advanced Radiology-PET Imaging of MD 1700 Reisterstown Road Baltimore, MD 21208	527L	05/03/2006	MD	Suite 119
Cancer & Blood Disease Center 521 N. Lecanto Highway Lecanto, FL 34461	72840	05/03/2006	FL	
Huntington Outpatient Imaging Center, Inc. 800 S. Fairmount Avenue Pasadena, CA 91105	W1575B	05/03/2006	CA	Suite 120
Universal Imaging, Inc. 4600 Investment Drive Troy, MI 48083	ON69130	05/03/2006	MI	
Berger Health System 1170 North Court Street Circleville, OH 43113	360710	05/03/2006	OH	
Contemporary Imaging-Trenton 1676 Fort Street Trenton, MI 48183	0P23200	05/03/2006	MI	
South Tulsa PET, LLC 7712 S. Yale Avenue Tulsa, OK 74136	800522360	05/03/2006	OK	Ste 100
Cancer Center of the Carolinas 200 Andrews Street Greenville, SC 29601	6526	05/03/2006	SC	Suite 100
OSF Saint Francis Medical Center	14-0067	05/03/2006	IL	

530 NE Glen Oak Avenue Peoria, IL 61637				
Sacred Heart-St. Mary's Hospitals, Inc. 2251 Northshore Drive Rhinelander, WI 54501	1100700	05/03/2006	WI	
Capital Region Radiation Therapy & Imaging 3400 W. Truman Boulevard Jefferson City, MO 65109	260047	05/03/2006	MO	PO 150832
University PET/CT Imaging 19 Bradhurst Avenue Hawthorne, NY 10532	W2Y371	05/03/2006	NY	Suite 1200
Aztech Radiology-Apache Trail 1840 W. Apache Trail Apache Junction, AZ 85222	Z72398	05/03/2006	AZ	
Aztech Radiology-Casa Grande 1669 E McMurray Boulevard Casa Grande, AZ 85222	Z25341	05/03/2006	AZ	
Missouri Cancer Associates 105 N. Keene Street Columbia, MO 65201	000012700	05/03/2006	MO	Suite 100
White River Medical Center 1710 Harrison Street Batesville, AR 72501	040119	05/03/2006	AR	
Englewood Hospital & Medical Center 350 Engle Street Englewood, NJ 07631	310045	05/03/2006	NJ	
Regional Imaging & Therapeutic Radiology Services 360 Bard Avenue Staten Island, NY 10310	1023095445	05/03/2006	NY	
Rocky Mountain Cancer Centers-South 7951 E. Maplewood Avenue	204508	05/03/2006	CO	

Suite 300 Greenwood Village, CO 80111				
Rocky Mountain Cancer Centers-North 7951 E. Maplewood Avenue Suite 300 Greenwood Village, CO 80111	204508	05/03/2006	CO	
Molecular Imaging of Hamilton County-Bethesda 4197 Fulton Road NW, Suite C Canton, OH 44718	MOID01221	05/03/2006	OH	
Molecular Imaging of Hamilton County-Good Sam 4197 Fulton Road NW, Suite C Canton, OH 44718	MOID01221	05/03/2006	OH	
Kettering Medical Center 3535 Southern Boulevard Kettering, OH 45429	360079	05/03/2006	OH	
St. Mary's Hospital 5801 Bremo Road Richmond, VA 23226	540793767	05/03/2006	VA	
Columbus Medical Institute of NY 97-85 Queens Boulevard Rego Park, NY 11374	05679	05/03/2006	NY	
Meadville Medical Center 1034 Grove Street Meadville, PA 16335	39-0113	05/03/2006	PA	
Chambersburg Hospital-Radiology 112 North Seventh Street Chambersburg, PA 17201	390151	05/03/2006	PA	
Oregon Advanced Imaging 881 O'Hare Parkway Medford, OR 97504	R114546	05/03/2006	OR	
Singing River Hospital 2809 Denny Avenue	250040	05/03/2006	MS	

Pascagoula, MS 39581				
East Texas Medical Center-Tyler 1000 S. Beckham Avenue Tyler, TX 75701	4500833	05/03/2006	TX	
Columbia, St. Mary's Hospital 2025 E. Newport Avenue, Columbia Campus Milwaukee, WI 53211	520051	05/03/2006	WI	
Sharon Regional Health System 740 East State Street Sharon, PA 16146	390211	05/03/2006	PA	
Northern Ohio Imaging Center 1900 West River Road Elyria, OH 44035	36-0172	05/03/2006	OH	
Oxford Valley Diagnostic Center 940 Town Center Drive Langhorne, PA 19047	232745550	05/03/2006	PA	Suite F50>
The Emory Clinic 1365 Clifton Road Building C Room Court 048 Atlanta, GA 30322	582030692	05/03/2006	GA	
Alegent Health Bergan Mercy Medical Center 7500 Mercy Road Omaha, NE 68124	280060	05/03/2006	NE	
University Center Imaging 1065 Delaware Avenue Marion, OH 43302	20-3873307	05/03/2006	OH	
Elk Regional Health Center 763 Johnsonburg Road St Mary's, PA 15857	39-0154	05/03/2006	PA	

Health Park Hospital 1636 Higdon Ferry Road Hot Springs, AR 71913	04-0142	05/03/2006	AR	
Johnsonburg Health Center 81 Clarion Road Johnsonburg, PA 15845	39-0104	05/03/2006	PA	
Jane Phillips Medical Center 3500 E. Frank Phillips Boulevard Bartlesville, OK 74006	370015	05/03/2006	OK	
North Main Imaging Center 7650 First Place Suite B Oakwood Village, OH 44146	NEID01521	05/03/2006	OH	
PET Imaging Center of Delaware County-DCMH 501 North Lansdowne Avenue Drexel Hill, PA 19026	390081	05/03/2006	PA	
NEO-PET CRC Imaging 7650 First Place Suite B Oakwood Village, OH 44146	NEID01521	05/03/2006	OH	
PET Imaging Center of Delaware County-Springfield 190 West Sproul Road. Springfield, PA 19064	381080	05/03/2006	PA	
Harper University Hospital 3990 John R Street Detroit, MI 48201	230104	05/03/2006	MI	
Sinai-Grace Hospital 6071 W. Outer Drive Detroit, MI 48235	23-0024	05/03/2006	MI	
Seattle Radiologists APC 1229 Madison Street Seattle, WA 98104	G0001589600	05/03/2006	WA	#900
Huron Valley-Sinai Hospital 1 William Carl Drive	23-0277	05/03/2006	MI	

Commerce, MI 48382				
East Memphis PET Imaging 6005 Park Avenue Memphis, TN 38119	3374526	05/03/2006	TN	Suite 101B
UPMC-PET Imaging Facility 200 Lothrop Street Pittsburgh, PA 15213	390164	05/03/2006	PA	9th Floor B-Wing PUH
UPMC-PET Imaging Facility 300 Halket Street Pittsburgh, PA 15213	390114	05/03/2006	PA	
Rhode Island Hospital 593 Eddy Street Providence, RI 02903	05-025-8954	05/03/2006	RI	
David C. Pratt Cancer Center 607 South New Bulbs Road St Louis, MO 63141	260020	05/03/2006	MO	
Lewistown Hospital 400 Highland Avenue Lewistown, PA 17044	390048	05/03/2006	PA	
Lawrence Memorial Hospital 325 Maine Street Lawrence, KS 66044	170137	05/03/2006	KS	
Jameson Hospital 1211 Wilmington Avenue New Castle, PA 16105	39-0016	05/03/2006	PA	
Diagnostic Clinic of Houston 1200 Binz Street Houston, TX 77004	76-0203506	05/03/2006	TX	
Arlington Heights Radiology Center, LLC 121 South Wilke Road Arlington Heights, IL 60005	212301	05/03/2006	IL	
Oregon Imaging Center 1200 Hilyard Street Eugene, OR 97401	R0000WCPGH	05/03/2006	OR	#330
Arlington Heights Radiology	212301	05/03/2006	IL	

Center, LLC 121 South Wilke Road Arlington Heights, IL 60005				
Indiana Univ Radiology Assoc PET Imaging Center 950 W. Walnut Street Room E124 Indianapolis, IN 46202	959090	05/03/2006	IN	
Morristown Memorial Hospital 100 Madison Avenue Morristown, NJ 07962	310015	05/03/2006	NJ	
Baton Rouge Radiology Group 5422 Dijon Drive Baton Rouge, LA 70808	5B039	05/03/2006	LA	
North Texas PET Imaging 3720 South I-35E Denton, TX 76210	752131429	05/03/2006	TX	
Children's Hospital of Michigan PET Center 3901 Beaubien Street Detroit, MI 48201	23-3300	05/03/2006	MI	
Winchester Medical Center 1840 Amherst Street Winchester, VA 22601	490005	05/03/2006	VA	
Decatur Health Imaging, LLC 1123 16th Avenue SE Decatur, AL 35601	051555161	05/03/2006	AL	
Health Imaging Services, LLC 1760 Warnke Circle NE Cullman, AL 35058	051553273HEA	05/03/2006	AL	
PET/CT Imaging of the Mainline 21 Industrial Boulevard Suite 103 Paoli, PA 19301	097715	05/03/2006	PA	
PET Imaging of Brevard 1430 Pine Street	39254	05/03/2006	FL	

Melbourne, FL 32901				
North Carolina Baptist Hospital Medical Center Boulevard Winston Salem, NC 27157	34-0047	05/03/2006	NC	
St Francis Hospital 34515 9th Avenue S Federal Way, WA 98003	500108	05/03/2006	WA	
Saint Barnabas Outpatient Center 200 S. Orange Avenue Livingston, NJ 07039	440149	05/03/2006	NJ	
PET/CT Imaging of Ramapa Radiology 972 Route 45 Suite 106 Pomona, NY 10970	W21711	05/03/2006	NY	
Medical University of South Carolina PET/CT 169 Ashley Avenue Charleston, SC 29425	420004	05/03/2006	SC	
Akron General Medical Center 300 Wabash Avenue Akron, OH 44307	36-0027	05/03/2006	OH	
New England Molecular Imaging-Mercy Hospital 144 State Road Portland, ME 04103	NE327075	05/03/2006	ME	
New England Molecular Imaging-Penobscot Bay 6 Glenn Cove Drive Rockport, ME 04856	NE327076	05/03/2006	ME	
Center for Outpatient Services-St. Joseph 3900 Hollywood Road St. Joseph, MI 49085	23-0021	05/03/2006	MI	
New England Molecular Imaging-Central Maine	NE327076	05/03/2006	ME	

12 High Street Lewiston, ME 04240				
Imaging Consultants, Inc.-Berkshire 8 Conte Drive Pittsfield, MA 01210	327085	05/03/2006	MA	
Imaging Consultants, Inc.-Boston Medical 840 Harrison Avenue Boston, MA 02118	327083	05/03/2006	MA	
Imaging Consultants, Inc.-Boston PET One Brookline, Place Brookline, MA 02445	327083	05/03/2006	MA	
Baptist Memorial Hospital PET Center 6027 Walnut Grove Road Memphis, TN 38120	44-0048	05/03/2006	TN	
Southern Oklahoma PET/CT Imaging 701 E. Robinson Street Norman, OK 73071	90015477	05/03/2006	OK	
Ann G. Fetters Diagnostic Imaging Center 2151 N. Harbor Boulevard Fullerton, CA 92835	050168	05/03/2006	CA	
Pitt County Memorial Hospital 2100 Stantonsburg Road Greenville, NC 27835	56-0585243	05/03/2006	NC	
Inland Imaging, LLC 105 W. 8th Avenue Spokane, WA 99202	AB01749	05/03/2006	WA	Suite 100C
University of Chicago Hospitals 5758 S. Maryland Avenue Chicago, IL 60637	140088	05/03/2006	IL	Room #0150

Birch Medical Imaging Center 20162 SW Birch Street Newport Beach, CA 92660	W19353	05/03/2006	CA	
Tennessee Oncology PET Services 2018 Murphy Avenue Nashville, TN 37203	3709319	05/03/2006	TN	Suite 200
Tennessee PET Scan 1020 N. Highland Avenue Murfreesboro, TN 37130	3791187	05/03/2006	TN	Suite A
Texas Oncology-Harris Center HEB 1615 Hospital Parkway Bedford, TX 76022	00R66C	05/03/2006	TX	Suite 300
Greater Dayton Cancer Center 3120 Governor's Place Boulevard Kettering, OH 45409	9295791	05/03/2006	OH	
Martha Jefferson Hospital 459 Locust Avenue Charlottesville, VA 22902	490077	05/03/2006	VA	
Modern Diagnostic Imaging 600 S. Dobson Road Chandler, AZ 85224	107628	05/03/2006	AZ	Suite B-16
Christiana Care Nuclear Medicine/PET 4755 Ogletown-Stanton Road Newark, DE 19718	080001	05/03/2006	DE	

Advanced Imaging of Port Charlotte, LLC 2625 Tamiami Trail Port Charlotte, FL 33952	K6802	05/03/2006	FL	Suite 1
St. Joseph's Diagnostic Center-MLK 3003 Martin Luther King, Jr. Boulevard Tampa, FL 33067	97779	05/03/2006	FL	
South Carolina Oncology Associates 166 Stoneridge Drive Columbia, SC 29210	6275	05/03/2006	SC	
South Carolina Oncology Associates 166 Stoneridge Drive Columbia, SC 29210	6276	05/03/2006	SC	
Access Health Imaging 5257 Highway 82, East Lake Village, AR 71653	5M809	05/03/2006	AR	
PET/CT Services of Florida-Beverly Hills 3404 N. Lecanto Highway Beverly Hills, FL 34465	V0103	05/03/2006	FL	Beverly Hills Medical Park
PET/CT Services of Florida-Ocala 1541 SW 1st Avenue Ocala, FL 34474	V0103	05/03/2006	FL	Suite 101B
Blanchard Valley Regional Health Center 145 W. Wallace Street Findlay, OH 45840	360095	05/03/2006	OH	

Papastavros Associates Medical Imaging 1701 Augustine Cut-Off Wilmington, DE 19803	1083615561	05/03/2006	DE	
PET Imaging of Willowbrook 13300 Hargrave Road Houston, TX 77070	FTN032	05/03/2006	TX	Suite 130
PET Imaging of Northern Colorado 1915 Wilmington Drive Ft Collins, CO 80528	804621	05/03/2006	CO	Suite 101
Temecula Valley Advanced Imaging 25395 Hancock Avenue Murrieta, CA 92592	ZZZ-150752	05/03/2006	CA	Suite 110
Saint Anthony Memorial Health Center 301 West Homer Street Michigan City, IN 46360	A150015	05/03/2006	IN	
Salina Regional Health Center 400 S. Santa Fe Avenue Salina, KS 67401	170012	05/03/2006	KS	PO Box 5080
Cancer Center of Kansas 818 N. Emporia Street Wichita, KS 67214	110217	05/03/2006	KS	Suite 100
Clinton Crossings Imaging 995 Senator Keating Boulevard Rochester, NY 14618	14439A	05/03/2006	NY	
NSMS-Shelby County 4253 Argosy Court Madison, WI 53714	I16068	05/03/2006	WI	
Verrazano Radiology, PC 256A Mason Avenue Staten Island, NY 10305	200011201	05/03/2006	NY	

Imaging Consultants, Inc.-Brockton Hospital 680 Centre Street Brockton, MA 02301	327085	05/03/2006	MA	
Imaging Consultants, Inc.-Cape Cod 252 Long Pond Drive Harwich, MA 02645	327085	05/03/2006	MA	Fontain Medical Center
Imaging Consultants Inc - Falmouth 100 Ter Hewn Drive Falmouth, MA 02540	327085	05/03/2006	MA	
Imaging Consultants, Inc.-Jordan 275 Sandwich Street Plymouth, MA 02360	327085	05/03/2006	MA	
Imaging Consultants, Inc.-Holyoke 575 Beech Street Holyoke, MA 01040	327085	05/03/2006	MA	
Imaging Consultants, Inc.-Mercy Medical 271 Carew Street Springfield, MA 01089	327085	05/03/2006	MA	
Imaging Consultants, Inc.-Lawrence Memorial 170 Governors Avenue Medford, MA 02155	327083	05/03/2006	MA	
Imaging Consultants, Inc.-Metro West 115 Lincoln Street Framingham, MA 01701	327083	05/03/2006	MA	
Imaging Consultants, Inc.-Milford 14 Prospect Street Milford, MA 01757	327085	05/03/2006	MA	

Imaging Consultants, Inc.-Quincy 114 Whitwell Street Quincy, MA 02196	327083	05/03/2006	MA	
Imaging Consultants, Inc.-Saints Memorial 2 Hospital Drive Lowell, MA 01852	327083	05/03/2006	MA	
Imaging Consultants, Inc.-Truesdale 1030 Presidents Avenue Fall River, MA 02720	327085	05/03/2006	MA	
Imaging Consultants, Inc.-Twin City 76 Summer Street Fitenburg, MA 01420	N/A	05/03/2006	MA	
Imaging Consultants, Inc.-Worcester 20 Worcester Center Boulevard Worcester, MA 01608	327085	05/03/2006	MA	
Sentara Mobile PET/CT-Careplex 5900 Lake Wright Drive Suite B Norfolk, VA 23502	250605	05/04/2006	VA	
Sentara Mobile PET/CT-Lake Wright 5900 Lake Wright Drive Suite B Norfolk, VA 23502	250605	05/04/2006	VA	
Sentara Mobile PET/CT-Princess Anne 5900 Lake Wright Drive Suite B Norfolk, VA 23502	250605	05/04/2006	VA	
Sentara Mobile PET/CT-Williamsburg 5900 Lake Wright Drive Suite B Norfolk, VA 23502	250605	05/04/2006	VA	
Memorial Hospital of South	150058	05/04/2006	IN	

Bend 615 N. Michigan Street South Bend, IN 46601				
NSMS-Belleville, IL 4253 Argosy Court Madison, WI 53714	208196	05/04/2006	WI	
NSMS-Flora, IL 4253 Argosy Court Madison, WI 53714	208196	05/04/2006	WI	
NSMS-Breese, IL 4253 Argosy Court Madison, WI 53714	208196	05/04/2006	WI	
SSM DePaul Health Center 12303 DePaul Drive St Louis, MO 63044	260104	05/04/2006	MO	
Lutheran Hospital 7950 W. Jefferson Boulevard Fort Wayne, IN 46804	150017	05/11/2006	IN	
Memorial MRI and Diagnostic 1346 Campbell Road Houston, TX 77055	00941U	05/11/2006	TX	
Shields Imaging of Eastern Mass 55 Fogg Road Weymouth, MA 2190	327088	05/11/2006	MA	
Baystate MRI and Imaging Center 3300 Main Street Springfield, MA 1107	327039	05/11/2006	MA	
Advanced Imaging Center 16110 Jog Road, 200 Delray Beach, FL 33446	U2049	05/11/2006	FL	
UMASS Memorial MRI and Imaging Center 214 Shrewsburg Street Worcester, MA 1604	327040	05/11/2006	MA	
RCOA Imaging Services 1108 Minnequa Avenue	475748	05/11/2006	CO	

Pueblo, CO 81004				
Adventist Health PET/CT-Hanford 450 N. Greenfield Avenue Hanford, CA 93230	ZZZ318852	05/11/2006	CA	
Adventist Health PET/CT-Feather River 5974 Pertz Road Paradise, CA 95969	ZZZ318852	05/11/2006	CA	
Adventist Health PET/CT-Sonora 1000 Greenley Road Sonora, CA 95370	ZZZ318852	05/11/2006	CA	
Sarasota Memorial PET 5350 University Parkway Sarasota, FL 34238	U1775	05/11/2006	FL	
Adventist Health PET/CT-Redbud 18th Ave. at Highway 53 PO Box 6710 Clear Lake, CA 95422	ZZZ318852	05/11/2006	CA	
Adventist Health PET/CT-St. Helena 10 Woodland Road St. Helena, CA 94574	ZZZ318852	05/11/2006	CA	
Adventist Health PET/CT-Ukiah 275 Hospital Drive Ukiah, CA 95482	ZZZ318852	05/11/2006	CA	
Mease Outpatient Imaging 1840 Mease Drive Safety Harbor, FL 34685	100265	05/11/2006	FL	
Bardmoor Outpatient Center 8787 Bryan Dairy Road Largo, FL 33777	00594C	05/11/2006	FL	

Trinity Outpatient Center 2102 Trinity Oaks Boulevard New Port Richey, FL 34655	00594D	05/11/2006	FL	
Walnut Creek Imaging Center 114 La Casa Via, #200 Walnut Creek, CA 94598	ZZZ13902Z	05/11/2006	CA	
Carlisle Imaging Center 1240 S. Ft. Harrison Clearwater, FL 33756	594	05/11/2006	FL	
Valley Radiology Imaging at Samaritan 2581 Samaritan Drive, #100 San Jose, CA 95124	ZZZ139851Z	05/11/2006	CA	
Forest Hills PET Imaging 102-02 Queens Boulevard Forest Hills, NY 11375	06998G	05/11/2006	NY	
Roper LowCountry PET Imaging Center 316 Calhoun Street Charleston, SC 29401	Q326280001	05/11/2006	SC	
Premier PET Imaging of NJ 119 Cherry Hill Road Parsippany, NJ 07054	68433	05/11/2006	NJ	Suite 100
Methodist Medical Center of Illinois 221 NE Glen Oak Avenue Peoria, IL 61636	370661223	05/11/2006	IL	
Medical Imaging of Baltimore 6715 N. Charles Street Baltimore, MD 21204	258L	05/12/2006	MD	
Yagnesh Oza, MD 4117 Velerous Memorial Drive Mt Vernon, IL 62864	212702	05/12/2006	IL	
Moffitt Cancer Center 12902 Magnolia Drive Tampa, FL 33612	100271	05/12/2006	FL	
PrimeMed Imaging	260	05/12/2006	PA	Morgan Medical

5 Morgan Highway Suite 7 Scranton, PA18505				Complex
Rockville PET Imaging, PC 119 North Park Avenue Rockville Centre, NY 11570	WTC601	05/12/2006	NY	Suite 101
Porter Adventist Hospital 2525 South Downing Street Denver, CO 80210	60064	05/12/2006	CO	
Rapid City Regional Hospital Medical Imaging Services 353 Fairmont Boulevard Rapid City, SD 57701	43007	05/12/2006	SD	
Advanced Radiolgy Consultants 56 Quarry Road Trumbull, CT 06611	C02747	05/12/2006	CT	
Northeastern PA Imaging Center 2601 Stafford Avenue Scranton, PA 18505-0305	475385	05/12/2006	PA	PO BOX 3305
Billings MRI Center 1041 North 29th Street Billings, MT 59101-1075	81030	05/12/2006	MT	
Aurora St. Luke's Medical Center 2900 W. Oklahoma Avenue Milwaukee, WI 53215	520138	05/12/2006	WI	Nuclear Medicine Department
Memorial & St. Elizabeth's Healthcare Services, LLC 4000 N. Illinois Lane Swansea, IL 62226	201339	05/12/2006	IL	PET/CT Imaging Center
Palm Beach Cancer Institute-West Palm Beach 1309 North Flagler Drive West Palm Beach, FL 33401-2710	34754	05/12/2006	FL	

Overlook Hospital 99 Beauvoir Avenue Summit, NJ 07902	8772966189	05/12/2006	NJ	
Ashland Bellefonte Cancer Center 122 Saint Christopher Drive Ashland, KY 41101	2150	05/12/2006	KY	
Bryn Mawr Imaging Center 101 S. Bryn Mawr Avenue Bryn Mawr, PA 19010	473120	05/12/2006	PA	
Oncology Alliance 1055 N. Mayfair Road Suite 100 Wauwatosa, WI 53220	32836000	05/12/2006	WI	
Shared PET Maimonides 6300 Eighth Avenue Brooklyn, NY 11220	97Z661	05/12/2006	NY	
Hoboken Radiology, LLC 79 Hudson Street Suite 100 Hoboken, NJ 07030	80395	05/12/2006	NJ	
Akron City Hospital 525 E. Main Street Akron, OH 44309	360020	05/12/2006	OH	
Park Avenue Radiologists, PC 525 E. Main Street Rome, GA 30165	W21771	05/12/2006	NY	
Comprehensive Blood & Cancer Center 6501 Truxtun Avenue Bakersfield, CA 93309	zzz238732	05/12/2006	CA	
Rome Imaging Center 309 West 10th Street Rome, GA 30165	GRP1221	05/12/2006	GA	
Hawaii PET Imaging 2230 Liliha Street Honolulu, HI 96817	54537	05/12/2006	HI	
Imaging Consultants, Inc. at	327085	05/12/2006	MA	

Henry Heywood Hospital 242 Green Street Gardner, MA 01440				
Imaging Consultants, Inc. at Nashoba Valley Medical Center 200 Groton School Road Ayer, MA 01432	327085	05/12/2006	MA	
Rhode Island PET Services at Memorial Hospital 111 Brewster Street Pawtucket, RI 2860	479003556	05/12/2006	RI	
Osceola Cancer Center 737 W. Oak Street Kissimmee, FL 34741	1629034202	05/12/2006	FL	
Valley Radiologists, Ltd.-Paseo II Office 5605 W. Eugie Avenue Suite 110 Glendale, AZ 85304	1902896236	06/13/2006	AZ	
Southeast GYN, Oncology PET 5210 Belfort Road Suite 130 Jacksonville, FL 32256	45542	06/13/2006	FL	
The Johns Hopkins PET Center 600 N. Wolfe Street Baltimore, MD 21287	210009	06/13/2006	MD	Nelson Basement
Maklansky, Grunter, Kurzban, Cohen, Zimmer, Hyman 165 East 84th Street New York, NY 10028	W20393	06/13/2006	NY	
Methodist Medical Center of Illinois 112 Crescent Avenue Peoria, IL 61636	370661223	06/13/2006	IL	

Phoebe Putney Memorial Hospital 417 Third Avenue PO Box 1828 Albany, GA 31702-1828	110007	06/13/2006	GA	
Eiber Radiology/PET Premier Imaging 21 West 49th Street Hialeah, FL 33012	k3166	06/13/2006	FL	
Botsford Hospital 28050 Grand River Avenue Farmington Hills, MI 48336	230151	06/13/2006	MI	
Middletown Regional Hospital 105 McKnight Drive Middletown, OH 45044	360076	06/13/2006	OH	
Waukesha Memorial Hospital 725 American Avenue Waukesha, WI 53188	390910727	06/13/2006	WI	
Battle Creek Health System 300 North Avenue Battle Creek, MI 49016	230075	06/13/2006	MI	
Orlando Regional Medical Center 1414 Kuhl Avenue Orlando, FL 32806	100006	06/13/2006	FL	
NorthEast Medical Center 1065 NorthEast Gateway Court NE Concord, NC 28025	340001	06/13/2006	NC	
Premier Medical Imaging 7651 Stagers Loop Delaware, OH 43015	9912921	06/13/2006	OH	
Advanced Radiolgy Consultants 15 Corporate Drive Trumbull, CT 6611	C02747	06/13/2006	CT	
Advance PET Imaging 23 Technology Drive	46a401	06/13/2006	NY	

East Setauket, NY 11733				
Premier PET Imaging of Wichita 500 S. Main Street Suite B Wichita, KS 67202	110682	06/13/2006	KS	
Health Center Northwest 320 Sunnyview Lane Kalispell, MT 59901	270087	06/13/2006	MT	
Olympic Medical Center 844 N. 5th Avenue Sequim, WA 98382	500072	06/13/2006	WA	
Premier PET Imaging of Jacksonville 5210 Belfort Road Suite 130 Jacksonville, FL 32256	K3166	06/13/2006	FL	
PET/CT Imaging of San Jose 2211 Moorpark Avenue Suite 220 San Jose, CA 95128	ZZZ19866Z	06/13/2006	CA	
The Reading Hospital and Medical Center 6th and Spruce Streets West Reading, PA 19611	390044	06/13/2006	PA	
Julia Rackley Perry Memorial Hospital 530 Park Avenue East Princeton, IL 61356	141337	06/13/2006	IL	
Ashland Bellefonte Cancer Center 122 Saint Christopher Drive Ashland, KY 41101	2150	06/13/2006	KY	
Tower Imaging BBD 14231 Bruce B Down Boulevard Tampa, FL 33613	169	06/13/2006	FL	

VyMed Diagnostic Imaging Tampa, LLC 10010 N. Dale Mabry Suite 160 Tampa, FL 33618	U4068	06/13/2006	FL	
Texas Oncology Cancer Center Sugar Land 1350 First Colony Boulevard Sugar Land, TX 77479	00073F	06/13/2006	TX	
Samaritan North Health Center 9000 N. Main Street Dayton, OH 45415	360052	06/13/2006	OH	
The PET Center of Oxford 1612 US Highway 78 East Suite 102 Oxford, AL 36203	51554888	06/13/2006	AL	
Shared PET Mem Lighthouse 6901 N. Main Street Granger, IN 46530	232800	06/13/2006	IN	
Shared PET Hope Cancer Center 3702 South Fourth Street Terre Haute, IN 47802	201320	06/13/2006	IN	
Athens Regional Medical Center 1199 Prince Avenue Athens, GA 30606	110074	06/13/2006	GA	
Muskogee PET & Nuclear Imaging 3300 Chandler Road Suite #106 Muskogee, OK 74403	400522529	06/13/2006	OK	
Lubbock Imaging Center 4011 19th Street Lubbock, TX 79410	00027K	06/13/2006	TX	
Memorial Medical Center 701 N. First Street Springfield, IL 62781	140148	06/13/2006	IL	
Hamamatsu/Queen's PET		06/13/2006	HI	

Imaging Center 1301 Punchbowl Street Honolulu, HI 96813				
Aurora BayCare Medical Center 2845 Greenbrier Road Green Bay, WI 54308	520193	06/13/2006	WI	
Medical Center of Plano 3901 W. 15th Street Plano, TX 75002	450651	06/13/2006	TX	
Carolinas Medical Center 1000 Blythe Boulevard Charlotte, NC 28203	340113	06/13/2006	NC	
Redwood Regional Medical Group d.b.a. Santa Rosa Radiology 121 Sotoyome Street Santa Rosa, CA 95405	680344865	06/13/2006	CA	
Boone Hospital Center 1600 East Broadway Columbia, MO 65201	260068	06/13/2006	MO	
River Radiology 45 Pine Grove Avenue Kingston, NY 12401	W30681	06/13/2006	NY	
University of Washington Medical Center 1959 NE Pacific Street Seattle, WA 98195	142700	06/13/2006	WA	
Mid American Imaging-Salem 1987 E. 4th Street Salem, OH 44460	ID00804	06/13/2006	OH	
Piedmont Medical Center 222 S. Herlong Avenue Rock Hill, SC 29732	420002	06/13/2006	SC	
Alliance Imaging-Sparks 1311 South I Street Fort Smith, AR 72817	5F463	06/13/2006	AR	

Radiology Imaging Associates 1825 SE Tiffany Avenue Suite 104 Port St. Lucie, FL 34952	52	06/13/2006	FL	
Mount Sinai Medical Center One Gustave L. Levy Place New York, NY 10029	H23620	06/13/2006	NY	
NSMS-Ottawa, IL 4253 Argosy Court Madison, WI 53714	208196	06/13/2006	WI	
Center for Diagnostic Imaging 1550 E. Chestnut Avenue Vineland, NJ 08360	53290	06/13/2006	NJ	Bldg 4 Suite A
St. Mary Mercy Hospital-Livonia 36475 Five Mile Road Livonia, MI 48154	230002	06/13/2006	MI	
Harold Leever Regional Cancer 1075 Chase Parkway Waterbury, CT 06708	470000025	06/13/2006	CT	
Kentucky Metabolic Imaging 2425 Regency Road Suite B Lexington, KY 40503	9366001	06/13/2006	KY	
Western Baptist Hospital 2501 Kentucky Avenue Paducah, KY 42001	180104	06/13/2006	KY	
St. Anthony Regional Hospital 311 South Clark Street Box 628 Carroll, IA 51401	1720067127	06/13/2006	IA	
Alliance Imaging-Sequoia Hospital 170 Alameda De Las Pulgas Redwood City, CA 94062	ZZZ28890Z	06/13/2006	CA	

Craven Regional Medical Center 2000 Neuse Boulevard New Bern, NC 28560	340131	06/13/2006	NC	
Alliance Imaging-Tri City Medical Center 4002 Vista Way Oceanside, CA 92056	TG281C	06/13/2006	CA	
Alliance Imaging-Yavapai Del Webb Outpatient Center Prescott Valley, AZ 86314	76103	06/13/2006	AZ	3262 Windsong Drive
Saint Vincent's Comprehensive Cancer Center 325 West 15th Street New York, NY 10011	330290	06/13/2006	NY	
Alliance Imaging-Southwest Medical Imaging 3104 Stockton Hill Road Kingman, AR 86401	76103	06/13/2006	AZ	
Alliance Imaging-North Idaho Imaging 700 Ironwood Drive Coeur d'Alene, ID 93814	1790291	06/13/2006	ID	
Froedtert Hospital 9200 W. Wisconsin Avenue Milwaukee, WI 53226	520177	06/13/2006	WI	
Alliance Imaging-Flagstaff Medical Center 1200 N. Beaver Street Flagstaff, AZ 86001	71855	06/13/2006	AZ	
South Florida Oncology and Hematology Consultants 4850 W. Oakland Park Boulevard Lauderdale Lakes, FL 33313	33873	06/13/2006	FL	Suite A
Alliance Imaging-Sierra Vista 300 El Camino Real	71855	06/13/2006	AZ	

Sierra Vista, AZ 85635				
Alliance Imaging- St. Joseph Eureka 2700 Dolbeer Street. Eureka, CA 95501	zzz23046z	06/13/2006	CA	
Alliance Imaging- Corvallis Clinic 3680 NW Samaritan Drive Corvallis, OR 97330	132104	06/13/2006	OR	
Bridgeport Hospital 267 Grant Street Bridgeport, CT 06610	70010	06/13/2006	CT	
Valley Radiologists, Ltd.-Paseo II Office 5605 W. Eugie Avenue Glendale, AZ 85304	1902896236	06/13/2006	AZ	Suite 110
Central Texas Medical Center 1301 Wonder World Drive San Marcos, TX 78666	450272	06/13/2006	TX	
Alliance Imaging-Verde Valley Medical Center 269 S. Candy Lane Cottonwood, AZ 86326	76103	06/13/2006	AZ	
Alliance Imaging-Union Hospital Cecil 106 Bow Street Elkton, MD 21821	FMN008	06/13/2006	MD	
St. Joseph Mercy Hospital -Ann Arbor 5301 E. Huron River Road Ann Arbor, MI 48106	230156	06/13/2006	MI	
Alliance Imaging-Navapache 2200 E. Show Low Lake Show Low, AZ 85901	76103	06/13/2006	AZ	
St. Clare Medical Center 1710 Lafayette Road Crawfordsville, IN 17933	150022	06/13/2006	IN	

Boynton Beach EFL Imaging Center, LLC 2300 S. Congress Avenue Boynton Beach, FL 33426	272376000	06/13/2006	FL	#105
Aurora Medical Center Oshkosh 855 N. Westhaven Drive Oshkosh, WI 54904	590198	06/13/2006	WI	
Southeast GYN, Oncology PET 5210 Belfort Road Jacksonville, FL 32256	45542	06/13/2006	FL	Suite 130
Stockton MRI & Molecular Imaging Medical Center 2320 N. California Street #2 Stockton, CA 95219	ZZZ290872	06/13/2006	CA	
South Texas Cancer Center 2150 N. Expressway 83 Brownsville, TX 78521	14041756	06/13/2006	TX	
Southwest Cancer Care Medical Group 5395 Ruffin Road San Diego, CA 92123	W4957B	06/13/2006	CA	#202
Radiology Associates of Venice and Englewood, PA 512-516 S. Nokomis Avenue Venice, FL 34285	99390	06/13/2006	FL	
Langlade Memorial Hospital Oncology 112 E. 5th Avenue Antigo, WI 54409	521350	06/13/2006	WI	
RCOA Imaging Services 305 South 5th Street Enid, OK 73701	400522301	06/13/2006	OK	

North Shore Hematology Oncology Associates, PC 235 N. Belle Mead Road East Setauket, NY 11733	W04051	06/13/2006	NY	
Providence Holy Cross Imaging Center 26357 McBean Parkway Suite 155 Santa Clarita, CA 91355	TP129	06/13/2006	CA	
Alaska Open Imaging Center, LLC 6911 DeBarr Road Anchorage, AK 99504	K153149	06/13/2006	AK	
Temecula Valley Nuclear Medicine 25485 Medical Center Drive Murrieta, CA 92562	00A417170	06/13/2006	CA	Suite 102
Hematology Oncology Assoc. of the Treasure Coast 1801 SE Hillmoor Drive Port Saint Lucie, FL 34952	40806	06/13/2006	FL	Suite B-107 (Mobile)
The Center for Cancer and Blood Disorders 800 W. Magnolia Avenue Fort Worth, TX 76104	00L79L	06/13/2006	TX	
Alliance Imaging-South Coast Medical Center 31872 Pacific Coast Highway Laguna Beach, CA 92651	TG281B	06/13/2006	CA	
The Medical Center at Bowling Green 250 Park Street Bowling Green, KY 42101	180013	06/13/2006	KY	PET/CT Center
Johns Hopkins Bayview Medical Center 4940 Eastern Avenue Baltimore, MD 21224	210029	06/13/2006	MD	Imaging Department-Nuclear Medicine
University of Michigan,	230046	06/13/2006	MI	Box 0028, B1H418

Department of Radiology 1500 E. Medical Center Drive Ann Arbor, MI 48109				University Hospital
Carmichael Imaging, LLC 4147 Carmichael Road Montgomery, AL 36106	51551742	06/13/2006	AL	
Clearfield Hospital 809 Turnpike Avenue Clearfield, PA 16830	390052	06/13/2006*	PA	
Clinical Pet of Hernando 4003 Mariner Boulevard Spring Hill, FL 34609	V2683	06/13/2006	FL	
Booth Radiology 105 Kings Way W. Hurffville-Crosskeys Road Sewell, NJ 08080	39460	06/13/2006	NJ	
Clinical PET of Zepherhills 38044 Daughtery Road Zephyrhills, FL 33542	E7179B	06/13/2006	FL	
Radiology & Diagnostic Imaging 2200 East Parrish Avenue Owensboro, KY 42303	3641	06/13/2006	KY	Building D
Santa Monica Bay Physicians 12524 W. Washington Boulevard Los Angeles, CA 90066	W14560	06/13/2006	CA	
Missouri Baptist Medical Center 3023 N. Ballas Road. St. Louis, MO 63141	260108	06/13/2006	MO	Suite 150, Building D
Radiology Associates of Tallahassee, PA 1600 Phillips Road Tallahassee, FL 32308	60	06/13/2006	FL	

Pacific Imaging-Oakland 3200 Telegraph Avenue Oakland, CA 94609	1265480099	06/13/2006	CA	
Medical Group of North County 5395 Ruffin Road #202 San Diego, CA 92123	W11609	06/13/2006	CA	#202
Somerset Community Hospital 225 South Center Avenue Somerset, PA 15501	390039	06/13/2006	PA	
Elmbrook Memorial Hospital 19333 W. North Avenue Brookfield, WI 53045	520170	06/13/2006	WI	
San Luis Diagnostic Medical Associates 1100 Monterey Street San Luis Obispo, CA 93401	W14221	06/13/2006	CA	Suite 210
Cancer Care Centers of S.Texas, PA (New Braunfels) 1448 Common Street New Braunfels, TX 78130	00U40Q	06/13/2006	TX	
Cancer Care Centers of S.Texas, PA (San Antonio) 8109 Fredericksburg Road San Antonio, TX 78229	00U40Q	06/13/2006	TX	
Cancer Care Centers of S.Texas, PA (Kerrville) 694 Hill Country Drive Kerrville, TX 78028	00U40Q	06/13/2006	TX	
San Antonio Molecular Imaging SAMI 9102 Floyd Curl Drive San Antonio, TX 78240	FTN025	06/13/2006	TX	Suite 193
Pacific Medical Imaging and Oncology Center, Inc. 707 South Garfield Avenue Alhambra, CA 91801	W19267	06/13/2006	CA	Suite B-001
Northern IL Cancer Treatment	210699	06/13/2006	IL	

Center 327 IL Route 2 Dixon, IL 61021				
Cancer Care Center 2210 Green Valley Road New Albany, IN 47150	243690	06/13/2006	IN	Suite 1
Northeast Radiology 3839 Danbury Road Brewster, NY 10509	1134118607	06/13/2006	NY	
New England PET Imaging System 70 East Street Methuen, MA1844	M20762	06/13/2006	MA	
Southeast Texas PET Imaging 690 North 14th Street Beaumont, TX 77702	0004CC	06/13/2006	TX	
Sun City West PET Scan 14418 W. Meeker Boulevard Sun City West, AZ 85374	102496	06/13/2006	AZ	Suite 105
Butler Memorial Hospital 911 East Brady Street Butler, PA 16001	390168	06/13/2006	PA	
Diagnos, Inc., d.b.a. Diagnos PET/CT Imaging 2000 North Loop West Houston, TX 77018	ftnx11	06/13/2006	TX	Suite 100
Alliance Imaging-Washington Hospital 38950 Civic Center Drive Fremont, CA 94538	ZZZ28890Z	06/13/2006	CA	
Providence Saint Joseph Hospital 201 S. Buena Vista Street Burbank, CA 91505	50235	06/13/2006	CA	#125
Alliance Imaging-Centinela Freeman 333 Prairie Avenue	TG281	06/13/2006	CA	

Inglewood, CA 90301				
Alliance Imaging-Corona Regional Hospital 800 S. Main Street Corona, CA 91720	ZZZ23042Z	06/14/2006	CA	
Alliance Imaging-St. Mary's Regional Medical Center 235 W. 6th Street Reno, NV 89503	37860	06/14/2006	NV	235 W. 6th Street
Alliance Imaging-Downey Regional Medical Center 11500 Brookshire Avenue Downey, CA 90241	TG490	06/14/2006	CA	
Alliance Imaging-Visalia Medical Clinic 5400 W. Hillsdale Drive Visalia, CA 93291	ZZZ23046Z	06/14/2006	CA	
Alliance Imaging-Anaheim Memorial Medical Center 1111 W. La Palma Avenue Anaheim, CA 92801	TD017C	06/14/2006	CA	Anaheim Memorial Medical Center
Glendale Diagnostic Imaging Network Medical Office 403 South Glendale Avenue Glendale, CA 91205	W19100	06/14/2006	CA	
Advanced Imaging at Baybrook 11 Murray Street Glens Falls, NY 12801	33554a	06/14/2006	NY	
Elizabethtown Hematology-Oncology PLC 1107 Woodland Drive Elizabethtown, KY 42701	3638	06/14/2006	KY	Suite 105
Northern Arizona Radiology 77 W. Forest Avenue Suite 101 Flagstaff, AZ 86001	WCGJX	06/14/2006	AZ	
Suburban Imaging-	3087	06/14/2006	MN	

Coon Rapids 8990 Springbrook Drive Suite 140 Coon Rapids, MN 55433				
Covenant Medical Center 200 East Ridgeway Avenue Waterloo, IA 50702	421264647	06/14/2006	IA	
Mayo Clinic Rochester 10 3rd Avenue NW Rochester, MN 55905	1922074434	06/14/2006	MN	Charlton Building
Thousand Oaks Diagnostic Imaging Center 2180 Lynn Road Thousand Oaks, CA 91360	TP118	06/14/2006	CA	
InnerVision Advanced Medical Imaging 3801 Amelia Avenue Lafayette, IN 47905	167840	06/14/2006	IN	
UT-M. D. Anderson Cancer Center-PET Facility 1220 Holcombe Boulevard Houston, TX 77030	450076	06/14/2006	TX	ACB 6th Floor
Emory University Hospital 1364 Clifton Road, NE Atlanta, GA 30322	110010	06/14/2006	GA	Rm. E121 Nuclear Medicine/PET
Glendale MRI Institute 624 S. Central Avenue Glendale, CA 91204	HW9951	06/14/2006	CA	
Princeton Radiology 9 Centre Drive Jamesburg, NJ 08831	526492	06/14/2006	NJ	
Caromont Imaging Services 620 Summit Crossing Place Gastonia, NC 28054	340032	06/14/2006	NC	Suite 106
North Central Imaging 155 Sonterra Boulevard Suite 100	00867N	06/14/2006	TX	

San Antonio, TX 78258				
Robert L. B. Tobin Diagnostic Imaging Center 7979 Wurzbach Drive Suite U113 San Antonio, TX 78229	00867N	06/14/2006	TX	
Edwards Comprehensive Cancer Center 1400 Hal Greer Boulevard Huntington, WV 25701	510055	06/14/2006	WV	
Home Hospital GLHS 2400 South Street Lafayette, IN 47904	150109	06/14/2006	IN	
St. Luke's North PET 153 Brodhead Road Bethlehem, PA 18017	390049	06/14/2006	PA	
Alamance Regional Medical Center 1240 Huffman Mill Road Burlington, NC 27216-0202	340070	06/14/2006	NC	PO Box 202
Verrazano Radiology 256 Mason Avenue Staten Island, NY 10305	1698	06/14/2006	NY	
Total Imaging Sun City 3862 Sun City Center Sun City Center, FL 33571	U4840	06/14/2006	FL	
Ortonville Area Health Services 450 Eastvold Avenue Ortonville, MN 56278	241342	06/14/2006	MN	
Merle West Medical Center 2865 Daggett Avenue Klamath Falls, OR 97601	380050	06/14/2006	OR	
Elite Imaging, LLC 2845 Aventura Boulevard Aventura, FL 33180	K3535	06/14/2006	FL	Suite 145

St. Mary Centralia 400 N. Pleasant Avenue Centralia, IL 62801	140034	06/14/2006	IL	
North Texas Regional Cancer Center 3705 W. 15th Street. Plano, TX 75075	00543K	06/14/2006	TX	
Centegra Health System 4201 Medical Center Drive McHenry, IL 60050	140116	06/14/2006	IL	
Boston Diagnostic Imaging 398 East Altamonte Drive Altamonte Springs, FL 32701	77022	06/14/2006	FL	
William W. Backus Hospital 326 Washington Street Norwich, CT 06360	70024	06/14/2006	CT	
NSMS-Sparta, IL 4253 Argosy Court Madison, WI 53714	208196	06/14/2006	WI	
LaPorte Hospital & Healthcare Services 1007 Lincolnway LaPorte, IN 46350	150006	06/14/2006	IN	
Skagit Valley Hospital 1415 E. Kincaid Street Mt.Vernon, WA 98273	500003	06/14/2006	WA	
Alliance Imaging-Fairfield Hospital 303 NW 11th Street Fairfield, IL 62837	213393	06/14/2006	IL	
Anderson Hospital 6800 State Route 162 Maryville, IL 62062	212761	06/14/2006	IL	
Alliance Imaging-Dean 1313 Fish Hatchery Road Madison, WI 53715	92170	06/14/2006	WI	
Alliance Imaging-Research	9004263A	06/14/2006	MO	

2316 E. Meyer Boulevard Kansas City, MO 64112				
Alliance Imaging- St. Joseph 1000 Carondelet Drive Kansas City, MO 64114	9004263A	06/14/2006	MO	
Beebe Health Campus, d.b.a. Beebe Medical Center 18941 John J. Williams Highway Rehoboth, DE 19971	80007	06/14/2006	DE	
Medical Outsourcing Services, LLC 1200 Maple Road Joliet, IL 60432	211223	06/14/2006	IL	
Silver Spring Radiology 10801 Lockwood Drive Silver Spring, MD 20901	FDX009	06/14/2006	MD	STE 170
New England PET of Greater Lowell 295 Varnum Avenue Lowell, MA 01854	327080	06/14/2006	MA	
Stanford University 900A Blake Wilbur Drive Stanford, CA 94305	50441	06/14/2006	CA	
Medical Outsourcing, Services, LLC 3333 W. DeYoung Street Marion, IL 62959	211224	06/14/2006	IL	
Medical Outsourcing Services, LLC 1700 Clinton Street Muskegon, MI 49443	230066	06/14/2006	MI	
Medical Outsourcing Services, LLC 1001 Bellefontaine Avenue Lima, OH 45807	MEID02391	06/14/2006	OH	

Golf Diagnostic Imaging Center 9680 Golf Road Des Plaines, IL 60016	378810	06/14/2006	IL	
Medical Outsourcing Services, LLC 2816 South Ellis Avenue Chicago, IL 60616	211222	06/14/2006	IL	
Medical Outsourcing Services, LLC 1100 E. Norris Drive Ottawa, IL 61350	211224	06/14/2006	IL	
Medical Outsourcing Services, LLC 111 E. Spring Street Streator, IL 61364	211224	06/14/2006	IL	
Mansfield Imaging Center 536 S. Trimble Road Mansfield, OH 44906	MAD10921	06/14/2006	OH	Suite A
Manhattan Diagnostic Radiology 400 East 66th Street New York, NY 10021	W23211	06/14/2006	NY	
Riverside Walter Reed Hospital 7519 Hospital Drive Gloucester, VA 23061	490130	06/14/2006	VA	
Good Shepherd Hospital 450 West Highway 22 Barrington, IL 60010	140291	06/14/2006	IL	
Alliance Imaging-Presbyterian Intercomm Hospital 12401 Washington Boulevard Whittier, CA 90602	TG281A	06/14/2006	CA	Presbyterian Intercommunity Hospital
Altru Hospital 1200 S. Columbia Road. Grand Forks, ND 58201	350019	06/14/2006	ND	
Mid American Imaging-Union Hospital	ID00805	06/14/2006	OH	

659 Boulevard Street Dover, OH 44622				
Gundersen Clinic 1900 South Avenue Lacrosse, WI 54601	34217	06/14/2006	WI	
University of Minnesota Medical Center, Fairview 500 Harvard Street, SE Box 292 Minneapolis, MN 55455	C02390	06/14/2006	MN	
The Christ Hospital 2139 Auburn Avenue Cincinnati, OH 45219	360163	06/14/2006	OH	
West Michigan Cancer Center 200 N. Park Street Kalamazoo, MI 49007	0N66660	06/14/2006	MI	
Cyrus Diagnostic Imaging, Inc. 165 Waymont Court Lake Mary, FL 32746	40586	06/14/2006	FL	
Cancer Centers of Florida 1561 West Fairbanks Avenue Winter Park, FL 32789	K1833	06/14/2006	FL	
Cedars-Sinai Medical Center 8700 Beverly Boulevard Adler-Nail PET Center Los Angeles, CA 90048	951644600	06/14/2006	CA	S. Mark Taper Foundation Imaging Center
Cancer Centers of Florida 52 West Gore Street Orlando, FL 32806	K1833	06/14/2006	FL	
Cancer Centers of Florida 1111 Blackwood Avenue Ocoee, FL 34761	K1833	06/14/2006	FL	
Mt. Clemens Regional Medical Center 1000 Harrington Street Mt. Clemens, MI 48043	230227	06/14/2006	MI	

Truxtun Radiology Medical Group, LP 1818 16th Street Bakersfield, CA 93301	ZZZ25213Z	06/14/2006	CA	
Medical Outsourcing Services, LLC 1515 North Madison Avenue Anderson, IN 46011	223260	06/14/2006	IN	
Medical Outsourcing Services, LLC 1215 Franciscan Drive Litchfield, IL 62056	211224	06/14/2006	IL	
Piedmont Medical Center 1968 Peachtree Road, NW Atlanta, GA 30305	110083	06/14/2006	GA	
Medical Outsourcing Services, LLC 1400 West Park Street Urbana, IL 61801	211224	06/14/2006	IL	
Central Indiana PET, LLC 8301 Harcourt Road Suite 100 Indianapolis, IN 46260	201930	06/14/2006	IN	
Medical Outsourcing Services, LLC 812 North Logan Avenue Danville, IL 61832	211224	06/14/2006	IL	
Queens Medical Imaging, PC 69-15 Austin Street Forest Hills, NY 11375	1023011285	06/14/2006	NY	
NYOH PET/CT Imaging 43 New Scotland Avenue Albany, NY 12208	56917A	06/14/2006	NY	
Conroe Regional Medical Center 504 Medical Center Boulevard Conroe, TX 77304	450222	06/14/2006	TX	

Northeast Georgia Health System, Inc. Northeast Georgia Medical Center; 743 Spring Street Gainesville, GA 30501	110029	06/14/2006	GA	
Texas Oncology, PA-Mckinney 4510 Medical Center Drive Mckinney, TX 75069	00543K	06/14/2006	TX	#215
Medical Outsourcing Services, LLC 7150 Clearwater Drive Indianapolis, IN 46256	223260	06/14/2006	IN	
Medical Outsourcing Services, LLC 1402 East County Line Road Indianapolis, IN 46227	223260	06/14/2006	IN	
Texas Cancer Center-Sherman 2800 Highway 75 North Sherman, TX 75090	00543K	06/14/2006	TX	
Medical Outsourcing Services, LLC 120 Ralston Avenue Defiance, OH 43512	MEID02391	06/14/2006	OH	
Medical Outsourcing Services, LLC 2400 N. Rockton Avenue Rockford, IL 61103	211224	06/14/2006	IL	
Arlington Cancer Center 906 W. Randol Mill Road Arlington, TX 76012	00LK20	06/14/2006	TX	
Jupiter Medical Center 2055 Military Trail Jupiter, FL 33458	100253	06/14/2006	FL	

Cheyenne Radiology Group and MRI, PC 2003 Bluegrass Circle Cheyenne, WY 82009	W309142	06/14/2006	WY	
Hunterdon Imaging, PA 2100 Wescott Drive MRI Suite Flemington, NJ 08822	714119	06/14/2006	NJ	
Medical Outsourcing Services, LLC 200 Berteau Avenue Elmhurst, IL 60126	211223	06/14/2006	IL	
Magnolia Regional Center 611 Alcorn Drive Corinth, MS 38834	250009	06/14/2006	MS	
Monroe Clinic 515 22nd Avenue Monroe, WI 53566	520028	06/14/2006	WI	
Jupiter Hematology-Oncology Associates 345 Jupiter Lakes Boulevard Jupiter, FL 33458	34922	06/14/2006	FL	Ste.100
Southwest Regional Cancer Center 901 West 38th Street Austin, TX 78705	0080BY	06/14/2006	TX	
Positron Imaging Of Austin 6101 Balcones Drive Austin, TX 78731	00538K	06/14/2006	TX	
Southern Ocean County Hospital 1140 Route 72 West Manahawkin, NJ 08050	310113	06/14/2006	NJ	Radiology
Medical Outsourcing Services, LLC 9830 S. Ridgeland Road Chicago Ridge, IL 60145	211222	06/14/2006	IL	

Medical Outsourcing Services, LLC 430 West Votaw Street Portland, IN 47374	223260	06/14/2006	IN	
Saint Agnes Medical Center 1303 E. Herndon Avenue Fresno, CA 93720	50093	06/14/2006	CA	
Central Physicians Imaging 100 Southland Drive Lexington, KY 40503	9375001	06/14/2006	KY	Suite B
NEA Medical Center 3024 Stadium Boulevard Jonesboro, AR 72401	1386699353	06/14/2006	AR	
Northgate Medical Imaging, LLC 807 Northgate Boulevard New Albany, IN 47150	1205894235	06/14/2006	IN	
Ball Memorial Hospital 2401 University Avenue Muncie, IN 47303	150089	06/14/2006	IN	
The MRI Center 5200 Harroun Road Sylvania, OH 43560	360074	06/14/2006	OH	Flower Hospital
St. Joseph Regional Health Center 2801 Franciscan Drive Bryan, TX 77802	450011	06/14/2006	TX	
Steinberg Diagnostic (SDMI) 2850 Siena Heights Henderson, NV 89052	WCHCC	06/14/2006	NV	
Raritan Bay Medical Center 1 Hospital Plaza Old Bridge, NJ 08857	310039	06/14/2006	NJ	
MRI Center-St. Anne Mercy Hospital 3404 W. Sylvania Avenue Toledo, OH 43623	360262	06/14/2006	OH	

MRI Center-St. Charles Mercy Hospital 2600 Navarre Avenue Oregon, OH 43616	360081	06/14/2006	OH	
MRI Center-St. Luke's Hospital 2901 Monclova Road Maumee, OH 43537	360090	06/14/2006	OH	
MRI Center-St. Vincent Medical Center 2213 Cherry Street Toledo, OH 43608	360112	06/14/2006	OH	
MRI Center- Toledo Hospital 2142 N. Cove Boulevard Toledo, OH 43606	360068	06/14/2006	OH	
McAlester Regional Health Center One Clark Bass Boulevard McAlester, OK 74501	370034	06/14/2006	OK	
Express Imaging Center, Ltd. 1987 West Fourth Street Mansfield, OH 44906	9299151	06/14/2006	OH	Suite A
Mercy Regional Medical Center 375 East Park Avenue Durango, CO 81301	60013	06/14/2006	CO	
Texas Oncology-Longview Cancer Center PET 1300 N. Fourth Street Longviews, TX 75601	00T35E	06/14/2006	TX	
UNC Hospitals 101 Manning Drive Chapel Hill, NC 27514	3400610	06/14/2006	NC	PET Department. Basement W/C Hospital
DeKalb Medical Center-Diagnostic Imaging Center 2701 North Decatur Road Decatur, GA 30033	110076	06/14/2006	GA	
Long Island Pet Imaging	W4921	06/14/2006	NY	Suite 101

6 Ohio Drive Lake Success, NY 11042				
Vanderbilt University Medical Center 1161 21st Avenue South Nashville, TN 37232	3284867	06/14/2006	TN	Building 1251 RRB
Medical Outsourcing Services, LLC 1800 E. Lakeshore Drive Decatur, IL 62521	211224	06/14/2006	IL	
New York PET and CTA Imaging Center 7404 5th Avenue Brooklyn, NY 11209	1083680003	06/14/2006	NY	
Mercy Medical Center-North Iowa 1000 4th Street SW Mason City, IA 50401	160064	06/14/2006	IA	
Lawrence and Memorial Hospital 365 Motauk Avenue New London, CT 06320	70007	06/14/2006	CT	
Superior Medical Diagnostics II, LLC 235 Franklin Avenue Nutley, NJ 07110	68423	06/14/2006	NJ	
Oncology Specialists, S.C. 7900 N. Milwaukee Avenue Niles, IL 60714	587940	06/14/2006	IL	Suite 16
Hahnemann University Hospital Broad & Vine, MS300 Philadelphia, PA 19102	390290	06/14/2006	PA	
Shrewsbury Diagnostic Imaging, LLC 1131 Broad Street Shrewsbury, NJ 07702	24021	06/14/2006	NJ	Suite 110
Medical Outsourcing Services,	211224	06/14/2006	IL	

LLC 500 West Court Street Kankakee, IL 60901				
Forsyth Medical Center 3333 Silas Creek Parkway Winston Salem, NC 27103	3400014	06/14/2006	NC	
Medical Outsourcing Services, LLC 500 John Deere Road Moline, IL 61265	211224	06/14/2006	IL	
Medical Outsourcing Services, LLC 836 W. Wellington Avenue Chicago, IL 60657	211222	06/14/2006	IL	
Medical Outsourcing Services, LLC 1600 West Walnut Jacksonville, IL 62650	211224	06/14/2006	IL	
Medical Outsourcing Services, LLC 1600 23rd Street Bedford, IN 47471	223260	06/14/2006	IN	
Medical Outsourcing Services, LLC 1500 North Ritter Avenue Indianapolis, IN 46219	223260	06/14/2006	IN	
Medical Outsourcing Services, LLC 1221 N. Highland Aurora, IL 60506	211223	06/14/2006	IL	
Medical Outsourcing Services, LLC 1000 Lincoln Health Center Drive Mattoon, IL 61938	211224	06/14/2006	IL	
Salinas Valley Memorial Healthcare System 450 E. Romie Lane	50334	06/14/2006	CA	

Salinas, CA 93901				
Bridgeport Hospital 267 Grant Street Bridgeport, CT 06610	70010	06/14/2006	CT	
MRIGP, Inc., d.b.a. Advanced Medical Imaging Diamond H. 2490 W 26th Avenue Suite 20A Denver, CO 80211	H8808	06/14/2006	CO	
RCHO PET Imaging 5120 Belfort Boulevard Suite 130 Jacksonville, FL 32256	40259	06/14/2006	FL	
Presbyterian Hospital 200 Hawthorne Lane Charlotte, NC 28204	560554230	06/14/2006	NC	
Eisenhower Imaging Center 39000 Bob Hope Drive Rancho Mirage, CA 92210	ZZZ91572Z	06/14/2006	CA	Lower Level Lucy Curci Cancer Center
Mississippi Baptist Medical Center 501 Marshall Street Jackson, MS 39202	250102	06/14/2006	MS	
Texas Oncology-South Texas Cancer Center 2121 Pease Street Suite 101 Harlingen, TX 78550	14041756	06/14/2006	TX	Texas Oncology-South Texas Cancer Center
Valley Radiologists, Ltd.-Paseo II Office 5605 W. Eugie Avenue Suite 110 Glendale, AZ 85304	WCFHS	06/14/2006	AZ	
Good Samaritan Hospital 400 15th Avenue SE Puyallup, WA 98372	500079	06/14/2006	WA	
St. John's Mercy Hospital	260052	06/14/2006	MO	

851 5th Street Washington, MO 63090				
Memorial Hermann The Woodlands OPID 9200 Pinecroft Drive Suite 100 The Woodlands, TX 77380	741152597	07/14/2006	TX	
St. Luke's Hospital 232 South Wood's Mill Road Chesterfield, MO 63017	260179	07/14/2006	MO	
Lake Vista Cancer Center 2790 Lake Vista Drive Lewisville, TX 75067	00543K	07/14/2006	TX	
Palms Imaging Medical Group, Inc. 1901 Outlet Center Drive Oxnard, CA 93036	W19564	07/14/2006	CA	
Houston Medical Imaging, LLC 3310 Richmond Avenue Houston, TX 77006	00137K	07/14/2006	TX	
Alliance Imaging-West Anaheim Medical Center 3033 W. Orange Avenue Anaheim, CA 92804	TD017	07/14/2006	CA	
Winthrop PET Imaging Center 222 Station Plaza North Suite 140 Mineola, NY 11501	330167	07/14/2006	NY	
Greenville Hospital System University Medical Center 701 Grove Road Greenville, SC 29605	420078	07/14/2006	SC	
High Field Open MRI 1895 Jefferson Road Rices Landing, PA 15357	7885	07/14/2006	PA	
PET/CT Center at St. Anthony's POB	E5753	07/14/2006	FL	Suite 100

1201 5th Avenue North St. Petersburg, FL 33705				
Texas Oncology-Deke Slayton Cancer Center 501 Medical Center Webster, TX 77598	00t40e	07/14/2006	TX	
Invision North Florida Outpatient Imaging Center 6605 NW 9th Boulevard Gainesville, FL 32609	E4639	07/14/2006	FL	
Memorial Hospital of Union County 500 London Avenue Marysville, OH 43040	360092	07/14/2006	OH	
Texas Oncology/South Texas Cancer Center-McAllen 1901 S. 2nd Street McAllen, TX 78503	00N39J	07/14/2006	TX	
Baylor Medical Center at Irving 1901 North MacArthur Boulevard Irving, TX 75061	450079	07/14/2006	TX	
Providence Park Hospital 47601 Grand River Avenue Novi, MI 48374	230019	07/14/2006	MI	
Texas Oncology-Abilene 1957 Antilley Road Abilene, TX 79606	140414748	07/14/2006	TX	
St. Anthony Hospital 1000 North Lee Street Oklahoma City, OK 73101	370037	07/14/2006	OK	
Rice Memorial Hospital 301 Becker Avenue SW Willmar, MN 56201	240088	07/14/2006	MN	
LDS Hospital Nuclear Medicine 8th Avenue & C Street Salt Lake City, UT 84143	460010	07/14/2006	UT	

RMG First & Laurel Imaging Center 2466 First Avenue San Diego, CA 92101	W14057	07/14/2006	CA	
RMG Gardenview Imaging Center 1200 Gardenview Road Encinitas, CA 92024	W14057F	07/14/2006	CA	Suite 110
Decatur County Memorial Hospital 720 North Lincoln Street Greensburg, IN 47240	150062	07/14/2006	IN	
Midland Imaging Center 5001 Andrews Highway Midland, TX 79703	00U75H	07/14/2006	TX	
Advanced Imaging, LLC 3433 NW 56th C-10 Oklahoma City, OK 73112	400522379	07/14/2006	OK	
University of Iowa Hospitals and Clinics 200 Hawkins Drive Iowa City, IA 52242	160058	07/14/2006	IA	
AZ Oncology Associates PET/CT & CT Imaging Center 2070 W. Rudasill Road Tucson, AZ 85704	25291	07/14/2006	AZ	Suite 110
Medical Diagnostic Imaging 14 Raymond Avenue Poughkeepsie, NY 12603	EEN841	07/14/2006	NY	
Shore Memorial Hospital 10085 William F. Bernart Circle Nassawadox, VA 23413	540560500	07/14/2006	VA	
Deaconess Hospital 600 Mary Street Evansville, IN 47747	150082	07/14/2006	IN	
Great Neck Imaging, PC 907 Northern Boulevard	1487646311	07/14/2006	NY	

Great Neck, NY 11021				
FMH Rose Hill 1562 Opossumtown Pike Frederick, MD 21702	KP72	07/14/2006	MD	
Oakwood Annapolis Hospital 33155 Annapolis Road Wayne, MI 48184	230142	07/14/2006	MI	
The Regional Cancer Center 2500 West 12th Street Erie, PA 16505	140052	07/14/2006	PA	
Meritcare Hospital 801 North Broadway Fargo, ND 58122	350011	07/14/2006	ND	
Community Hospitals and Wellness Centers 433 W. High Street Bryan, OH 43506	360121	07/14/2006	OH	
Sacred Heart Hospital 900 W. Clairemont Avenue Eau Claire, WI 54701	520013	07/14/2006	WI	
Via Radiology-Meridian Pavilion 11011 Meridian Avenue North #101 Seattle, WA 98133	8859612	07/14/2006	WA	
Medical Outsourcing Services, LLC 2200 Market Street Charlestown, IN 47111	223260	07/14/2006	IN	
Allegheny General Hospital 320 East North Avenue Pittsburgh, PA 15232	60503	07/14/2006	PA	Division of Nuclear Medicine
Texas Oncology-12th Avenue 1001 W. 12th Avenue Fort Worth, TX 76104	00R66C	07/14/2006	TX	
Southwest Fort Worth Cancer Center	00R66C	07/14/2006	TX	

6500 Harris Parkway Fort Worth, TX 76132				
St. Rita's Medical Center 730 W. Market Street Lima, OH 45801	360066	07/14/2006	OH	
New Mexico Oncology Hematology Consultants, Ltd. 4901 Lang Avenue NE Albuquerque, NM 87109	850367056	07/14/2006	NM	
Emory Eastside Medical Center 545 Old Norcross Road Lawrenceville, GA 30045	110192	07/14/2006	GA	Suite 200
Riverside Regional Medical Center 500 J. Clyde Morris Boulevard Newport News, VA 23601	490052	07/14/2006	VA	
Connecticut Oncology & Hematology 220 Kennedy Drive Torrington, CT 06790	C00633	07/14/2006	CT	
Chilton Memorial Hospital 97 West Parkway Pompton Plains, NJ 07444	310017	07/14/2006	NJ	
Riverside Diagnostic Center Williamsburg 120 Kings Way Williamsburg, VA 23188	490052	07/14/2006	VA	
Lawrence County MRI & Diagnostic Imaging Center 2526 Wilmington Road New Castle, PA 16105	68617	07/14/2006	PA	
Joint Township District Memorial Hospital 200 St. Clair Street Saint Marys, OH 45885	360032	07/14/2005	OH	
Radiation Therapy Regional Centers	77215	07/14/2006	FL	

3680 Broadway Fort Myers, FL 33901				
Graduate Hospital 1800 Lombard Street Philadelphia, PA 19146	390285	07/14/2006	PA	One Graduate Hospital
Columbia Diagnostic Center 1111 Paulison Avenue Clifton, NJ 07015	94729	07/14/2006	NJ	
The Nebraska Medical Center 4250 Dewey Avenue Omaha, NE 68113	280013	07/14/2006	NE	
Memorial Hermann Memorial City OPID 925 Gessner Road Houston, TX 77024	741152597	07/14/2006	TX	
Clifton Springs Hospital and Clinic 2 Coulter Road Clifton Springs, NY 14432	330265	07/14/2006	NY	
Monongalia General Hospital 1200 J. D. Anderson Drive Morgantown, WV 26505	510024	07/14/2006	WV	Monongalia General Hospital
Providence Portland Medical Center 4805 NE Glisan Street Portland, OR 97213	380061	07/14/2006	OR	
Highfield Open MRI, Inc. 995 GreenTree Road Pittsburgh, PA 15220	7885	07/14/2006	PA	
Providence St. Vincent Medical Center 9205 SW Barnes Road Portland, OR 97225	380004	07/14/2006	OR	

Conway Regional Imaging Center 2120 Robinson Avenue Conway, AR 72034	40029	07/14/2006	AR	
Martin Memorial Medical Center 300 Hospital Avenue Stuart, FL 34994	100044	07/14/2006	FL	
Northwest Medical Foundation of Tillamook 1000 Third Street Tillamook, OR 97141	381317	07/14/2006	OR	Tillamook County General Hospital
O'Connor Hospital 2105 Forest Avenue San Jose, CA 95128-1471	50153	07/14/2006	CA	
Midtown Imaging, LLC-Wellington 440 N. State Road 7 Wellington, FL 33411	E9133	07/14/2006	FL	
Midtown Imaging, LLC-Jupiter 345 Jupiter Lakes Boulevard Jupiter, FL 33458	E9133	07/14/2006	FL	Suite 100
MMI/Mid Coast Hospital 51 US Route 1 Scarborough, ME 04074	327079	07/14/2006	ME	Suite O
Molecular Imaging Institute 5349 Commerce Boulevard Crown Point, IN 46307	192870	07/14/2006	IN	
RCOA Imaging Services 11937 US Highway 271 Tyler, TX 75708	FTN022	07/14/2006	TX	
MMI/Maine Medical Center 51 US Route 1 Scarborough, ME 4074	327079	07/14/2006	ME	Suite O
Radiology, Ltd. 4640 East Camp Lowell Drive Tucson, AZ 85712	WCBBM	07/14/2006	AZ	

Intermed Oncology Associates, S.C. 6701 159th Street Tinley Park, IL 60477	610860	07/14/2006	IL	
Lakes Radiology 450 Canisteo Street Hornell, NY 14843	1710937727	07/14/2006	NY	
Opelousas PET/CT Imaging Center 3975 I-49 South Service Road Suite 100 Opelousas, LA 70570	5DA11	07/14/2006	LA	
Florida Cancer Institute-BRK 7154 Medical Center Drive Spring Hill, FL 34608	1427017326	08/07/2006	FL	
Capital Health System 446 Belleview Avenue Trenton, NJ 08618	310044	08/07/2006	NJ	
Hudson Valley Diagnostic Imaging, PLLC 575 Hudson Valley Avenue New Windsor, NY 12553	WBH241	08/07/2006	NY	
St Joseph's Hospital 3200 Pleasant Valley Road West Bend, WI 53095	520063	08/07/2006	WI	
Atlantic Medical Imaging 30 East Maryland Avenue Somers Point, NJ 08244	101024	08/07/2006	NJ	
Providence Imaging Center 3340 Providence Drive Anchorage, AK 99508	2085R0202X	08/07/2006	AK	
Rochester Radiology Associates, PC 1277 Portland Avenue Rochester, NY 14621	199726	08/07/2006	NY	
Melbourne Internal Medicine Associates	77167	08/07/2006	FL	

1132 South Hickory Street Melbourne, FL 32901				
Highline Imaging, LLC 275 SW 160th Street Seattle, WA 98166	8801784	08/07/2006	WA	
Tyler PET 415 South Fleishel Avenue Tyler, TX 75702	752131429	08/07/2006	TX	
Lake City Medical Center 340 NW Commerce Drive Lake City, FL 32055	100156	08/07/2006	FL	
Blount Memorial Hospital 907 East Lamar Alexander Boulevard Maryville, TN 37804	440011	08/07/2006	TN	
Texas Cancer Center Mesquite 4700 North Galloway Mesquite, TX 75150	R339	08/07/2006	TX	
Rutland Regional Medical Center: Diagnostic Imaging 160 Allen Street Rutland, VT 05701	470005	08/07/2006	VT	
MDMED, Inc. 155 Calle Portal Suite 700 Sierra Vista, AZ 85635	Z68496	08/07/2006	AZ	
Atlantic Medical Imaging Wall Township 2399 North Highway 34 Manasquan, NJ 08736	101024	08/07/2006	NJ	Ramshorn Executive Centre Bldg B
Newport Imaging Center 455 Old Newport Road Suite 101 Newport Beach, CA 92660	W10829	08/07/2006	CA	
Cancer Care and Hematology Specialists(CCHSC) 8915 West Golf Road	355030	08/07/2006	IL	

Niles, IL 60714-05825				
Hematology Oncology Associates of Illinois (HOAI) 715 West North Avenue Melrose Park, IL 60160	218860	08/07/2006	IL	
Princeton Community Hospital 122 12th Street Ext Princeton, WV 24740	510046	08/07/2006	WV	PO Box 1369
TRICAT, LLC at Edison 3830 Park Avenue Edison, NJ 08820	27193	08/07/2006	NJ	Suite 102
Olathe Medical Center 20333 W. 151st Street Olathe, KS 66061	170049	08/07/2006	KS	
St. Joseph Hospital 1140 West La Veta Avenue Orange, CA 92868	50069	08/07/2006	CA	2nd Floor Nuclear Medicine
Baptist Health Medical Center 9601 I630, Exit 7 Little Rock, AR 72205-7299	40114	08/07/2006	AR	
Florida Cancer Specialists 3840 Broadway Fort Myers, FL 33901	1225064520	08/07/2006	FL	
Pacca PET Imaging 5210 Belfort Road Suite 130 Jacksonville, FL 32256	37572	08/07/2006	FL	
National PET Scan Palm Beach, LLC 16110 Jog Road Delray Beach, FL 33484	1164452405	08/07/2006	FL	Suite 200
Central Memphis Regional PET Imaging Center, LLC 1388 Madison Avenue Memphis, TN 38104	1295719110	08/07/2006	TN	
Johnston Memorial Hospital	490053	08/07/2006	VA	

351 Court Street NE Abingdon, VA 24210				
Lenox Hill Hospital 100 East 77th Street New York, NY 10021	131624070	08/07/2006	NY	
Mercy Medical Center 411 Laurel Street Suite 2310 Des Moines, IA 50314	160083	08/07/2006	IA	
New Orleans Regional PET Center, LLC 3434 Prytania Street Suite 120 New Orleans, LA 70115	1538143474	08/07/2006	LA	
Indiana Regional Medical Center PET Imaging 835 Hospital Road Indiana, PA 15701	390173	08/07/2006	PA	PO Box 788
Mid American-Defiance Clinic 1400 E. Second Street Defiance, OH 43512	ID00809	08/07/2006	OH	
Total Imaging Robertson 737 West Brandon Boulevard Brandon, FL 33511	k7282	08/07/2006	FL	
New Tampa Imaging Center 14302 N. Bruce B. Downs Boulevard Tampa, FL 33613	k57209	08/07/2006	FL	
Summit Imaging 12037 Cortez Boulevard Brooksville, FL 34613	40986	08/08/2006	FL	
University of NM Cancer Research & Treatment Center 900 Caminodey Salud NE Albuquerque, NM 87131	400521103	08/08/2006	NM	

Alliance Imaging-Los Alamitos Med Center 3751 Katella Avenue Los Alamitos, CA 90720	TD017	08/08/2006	CA	
NYU Clinical Cancer Center, Diagnostic Imaging 160 E. 34th Street New York, NY 10016	W1L361	08/08/2006	NY	2nd Floor
Margaret Mary Community Hospital 321 Mitchell Avenue Batesville, IN 47006	151329	08/08/2006	IN	
Quantum PET-Apple Hill 37 Monument Road York, PA 17403	40635	08/08/2006	PA	
Memorial Hospital 1204 N. Mound Street Nacogdoches, TX 75961	450508	08/08/2006	TX	
BMH-DeSoto 7601 Southcrest Parkway Southaven, MS 38671	250141	08/08/2006	MS	
Riverside Medical Center 300 Bourbonnais Campus Bourbonnais, IL 60914	140186	08/08/2006	IL	Riverside Medical Center

UCSD Center for Molecular Imaging 11388 Sorrento Valley Road Suite 100 San Diego, CA 92121	TG302	08/08/2006	CA	
Imaging Partners at Valley, LLC 400 South 43rd Street Renton, WA 98055	AB38657	08/08/2006	WA	Olympic Building
El Paso Cancer Treatment Center 7848 Gateway East Boulevard El Paso, TX 79915	00543K	08/08/2006	TX	
Desert Radiologists 3930 S. Eastern Avenue Las Vegas, NV 89119	VWCCBT	08/08/2006	NV	
Saint Joseph Hospital 2900 North Lake Shore Drive Chicago, IL 60068	140224	08/08/2006	IL	
Midstate Medical Center 435 Lewis Avenue Meriden, CT 06451	60646715	08/08/2006	VT	
Brookville Hospital 100 Hospital Road Brookville, PA 15825	391312	08/08/2006	PA	
Suntree Diagnostic Center 6300 N. Wickham Road Suite 101 Melbourne, FL 32940	701	08/08/2006	FL	
Virginia Mason Medical Center 1100 Ninth Avenue Seattle, WA 98101	500005	08/08/2006	WA	

Van Wert County Hospital 1250 South Washington Street Van Wert, OH 45891	360071	08/08/2006	OH	
Manhasset Diagnostic Imaging, PC 1350 Northern Boulevard 2nd Floor Manhasset, NY 11030	W14841	08/08/2006	NY	
Southern New Mexico Cancer Center 150 Road Runner Parkway Las Cruces, NM 88011	752131429	08/08/2006	NM	
Davis Memorial Hospital Gorman Avenue and Reed Street Elkins, WV 26241	510030	08/08/2006	WV	Gorman Avenue
Advocate Good Samaritan Hospital 3815 Highland Avenue Downers Grove, IL 60515	140288	08/08/2006	IL	
Benefis Healthcare 1101 26th Street South Great Falls, MT 59405	270012	08/08/2006	MT	
Fort Walton Beach Medical Center 1032 Mar Walt Drive Fort Walton Beach, FL 32547	100223	08/08/2006	FL	
Blessing Hospital PO Box #7005 Quincy, IL 62305	140015	08/08/2006	IL	
Alliance Imaging-Allen County Hospital 101 South 1st Street Iola, KS 53808	130656	08/08/2006	KS	

Florida Cancer Institute-NPR 8763 River Crossing Boulevard New Port Richey, FL 34655	1427017326	08/08/2006	FL	
Kimball Medical Center 600 River Avenue Lakewood, NJ 08701	315084	08/08/2006	NJ	
Radiology Imaging Associates at Heritage 8926 Woodyard Road Clinton, MD 20735	521454775	08/08/2006	MD	Suite 502
Immanuel Medical Center 6901 North 72nd Street Omaha, NE 68122	280081	08/08/2006	NE	
North Fork Radiology 1333 Roanoke Avenue Riverhead, NY 11901	w11401	08/08/2006	NY	
South County PET Imaging, LLC 10010 Kennerly Road St. Louis, MO 63128	93053	08/08/2006	MO	
Carolinas Hospital System 805 Pamplico Highway Florence, SC 29505	621587267	08/08/2006	SC	
Radiology Associates of San Luis Obispo 522 E. Plaza Drive Santa Maria, CA 93454	GR0009774	08/08/2006	CA	
Florida Cancer Specialists-Port Charlotte 22395 Edgewater Drive Port Charlotte, FL 33980	1225064520	08/08/2006	FL	
Florida Cancer Specialists-Venice 901 South Tamiami Trail Venice, FL 34285	1225064520	08/08/2006	FL	
Florida Cancer Specialists-Bradenton	1225064520	08/08/2006	FL	

6001 21st Avenue West Bradenton, FL 34209				
Nebraska Methodist Hospital 8303 Dodge Street Omaha, NE 68114	280040	08/08/2006	NE	
PET/CT Center of Richardson 399 Melrose Drive Richardson, TX 75080	1740207539	08/08/2006	TX	Suite A
Molecular Imaging at Sequoia Imaging Center 4949 W. Cypress Avenue Visalia, CA 93277	ZZZ27463Z	08/08/2006	CA	
Central Jersey Radiologists 2128 Kings Highway Oakhurst, NJ 07755	527995	08/08/2006	NJ	
Claxton-Hepburn Medical Center 214 King Street Ogdensburg, NY 13669	330211	08/08/2006	NY	
Memorial Hermann Southeast 11800 Astoria Boulevard Houston, TX 77089	741152597	08/08/2006	TX	
NSMS-Pine Bluff, AR 4253 Argosy Court Madison, WI 53714	5f168	08/08/2006	WI	
Yuma Regional Medical Center 2400 S. Avenue A Yuma, AZ 85364	866007596	08/08/2006	AZ	
Carle Clinic 1702 S. Mattis Avenue Champagne, IL 61820	371188284	08/08/2006	IL	
North Shore-LIJ Center for Advanced Medicine 450 Lakeville Road Lake Success, NY 11042	330106	08/08/2006	NY	North Shore-LIJ Center for Advanced Medicine Diagnostic Imaging Center
McAlester Diagnostic Imaging 10 South Third Street	1760411540	08/08/2006	OK	Suite 100

McAlester, OK 74501				
California Imaging Institute 1867 E. Fir Avenue Fresno, CA 93720	ZZZ03565Z	08/08/2006	CA	
Bon Secours Memorial Regional Medical Center 8260 Atlee Road Mechanicsville, VA 23116	541744931	08/08/2006	VA	
University of Maryland Medical Center 22 S. Greene Street Gudelksy 2nd Floor Baltimore, MD 21201	210002	08/08/2006	MD	Division of Nuclear Medicine
Bixby Medical Center 818 Riverside Avenue Adrian, MI 49221	230005	08/08/2006	MI	
Kern Radiology Medical Group 2301 Bahamas Drive Bakersfield, CA 93309	1720023997	08/08/2006	CA	
Bon Secours St. Francis Medical Center 13710 St. Francis Boulevard Midlothian, VA 23114	311716973	08/08/2006	VA	
MMI/Maine General Waterville 51 US Route 1 Scarborough, ME 04074	327079	08/08/2006	ME	Suite O
Mount Adams Imaging Center 3911 Castlevale Road Yakimaw, WA 98902	8857843	08/08/2006	WA	
Carilion Roanoke Memorial Hospital 2001 Crystal Spring Avenue Roanoke, VA 24014	490024	08/08/2006	VA	
Seton Medical Center; Nuclear Medicine Dept. 1900 Sullivan Avenue Daly City, CA 94015-2229	50289	08/08/2006	CA	
Arnett Imaging Center	224390	08/08/2006	IN	

2403 Loy Drive Lafayette, IN 47909				
Advanced Diagnostic Imaging, PC 1120 Professional Boulevard Evansville, IN 47630	639970	08/08/2006	IN	
Queen of Peace Hospital 301 Second Street NE New Prague, MN 56071	241361	08/08/2006	MN	
Agnesian Health Care 430 E. Division Street Fond du Lac, WI 54935	520088	08/08/2006	WI	
ACMH Hospital One Nolte Drive Kittanning, PA 16201	390163	08/08/2006	PA	
Wilshire Oncology Medical Group, Inc. 1280 Corona Pointe Court Corona, CA 92879	zzz19568z	08/08/2006	CA	Suite 112
United Radiology-Laurel 14201 Laurel Park Drive Laurel, MD 20707	2.01558E+11	08/08/2006	MD	Suite 208
Bay Area Medical Center 3100 Shore Drive Marinette, WI 54143	520113	08/08/2006	WI	
Penn State Milton S. Hershey Medical Center 500 University Drive Hershey, PA, 17033	251854772	08/08/2006	PA	HG380
Delta St. Joseph's MRI, LLC 1617 N. California Street Stockton, CA 95204	ZZZ19725Z	08/08/2006	CA	Suites 1A and 1B
United Radiology: Bowie 16701 Melford Boulevard Bowie, MD 20715	2.01558E+11	08/08/2006	MD	
United Radiology Gaithersburg 702 Russell Avenue Gaithersburg, MD 20877	2.01558E+11	08/08/2006	MD	

United Radiology Olney 18120 Hillcrest Drive Olney, MD 20832	2.01558E+11	08/08/2006	MD	Suite A
FCS/Axcess Diagnosis/Sarasota 600 N. Cattleman Road Sarasota, FL 34232	1225064520	08/08/2006	FL	
NSMS-Greenville, IL 4253 Argosy Court Madison, WI 53714	208196	08/08/2006	WI	
FCS/Axcess Diagnosis/Venice 842 Sunset Lake Boulevard Venice, FL 34292	1225064520	08/08/2006	FL	Suite #301
Leading Edge Radiation 8715 5th Avenue Brooklyn, NY 11209	WEM111	09/05/2006	NY	
Rena Tarbet Cancer Center 4201 Medical Center Drive Suite 180 McKinney, TX 75069	oow753	09/05/2006	TX	
McLaughlin & Marte, M.D, LLP 3850 Tampa Road Suite 202 Palm Harbor, FL 34684	1003862079	09/05/2006	FL	
BryanLGH Medical Center 2300 South 16th Street Lincoln, NE 68502	280003	09/05/2006	NE	
Freehold MR Associates 691 West Main Street Freehold, NJ 07728	405856	09/05/2006	NJ	
Franciscan Skemp Healthcare 700 West Avenue South La Crosse, WI 54601	520004	09/05/2006	WI	
Teton Radiology 2001 S. Woodruff Suite 17 Idaho Falls, ID 83404	1371462	09/05/2006	ID	
Fletcher Allen Health Care Mobile Pad 790 College Parkway	1659309615	09/05/2006	VT	790 College Parkway

Colchester, VT 05446				
University of Penn Imaging Center 3600 Market Street 3rd Floor Silverstein Philadelphia, PA 19104	764089	09/05/2006	PA	
Sitron-Hammel Radiology Group 4277 Hempstead Turnpike Suite 200 Bethpage, NY 11714	W14891	09/05/2006	NY	
MRI of Saint Louis Obispo 1064 Murray Avenue San Luis Obispo, CA 93405	1881661361	09/05/2006	CA	
Lahey Clinic 41 Mall Road Burlington, MA 01805	220171	09/05/2006	MA	
St Joseph Medical Center 215 N. 12th Street Reading, PA 19603	390096	09/05/2006	PA	
Spartanburg Regional Medical Center 101 E. Wood Street Spartanburg, SC 29303	420007	09/05/2006	SC	
Aurora Sinai Medical Center 945 N. 12th Street Milwaukee, WI 53201	520064	09/05/2006	WI	
FHN Memorial Hospital 1045 W. Stephenson Street Freeport, IL 61032	140160	09/05/2006	IL	
Southwest Washington Medical Center 400 NE Mother Joseph Place Vancouver, WA 98668	500050	09/05/2006	WA	

St. Lukes Center for Diagnostic Imaging 6 McBride and Sons Corporate Center Drive Suite 101 Chesterfield, MO 63005	47006	09/05/2006	MO	
The Stamford Health System Shelbourn Road & West Broad Street Stamford, CT 06904	70006	09/05/2006	CT	
Hagerstown Imaging, LLC 1150 A Professional Court Hagerstown, MD 21741	1518914936	09/05/2006	MD	
GCM Suburban Imaging 6420 Rockledge Drive Suite 3100 Bethesda, MD 20817	409623	09/05/2006	MD	
Alliance Imaging-No. Idaho Imaging 2003 Lincoln Way Coeur d'Alene, ID 83814	1790291	09/05/2006	ID	
HPMA PET Center 22710 Professional Drive Suite 104 Kingwood, TX 77339	0019BY	09/05/2006	TX	
Parma Community General Hospital 7007 Powers Boulevard Parma, OH 44129	360041	09/05/2006	OH	
Pacific Shores Medical Group PET Imaging 1043 Elm Street #104 Long Beach, CA 90813	W13494	09/05/2006	CA	
Clark Memorial Hospital 1220 Missouri Avenue Jeffersonville, IN 47130	15009	09/05/2006	IN	
Abilene Imaging Center, LLC 750 North 18th Street Abilene, TX 79601	FTA070	09/05/2006	TX	

DuBois Regional Medical Center 100 Hospital Avenue DuBois, PA 15801	390086	09/06/2006	PA	
Meeker County Memorial Hospital 612 South Sibley Avenue Litchfield, MN 55355	241366	09/06/2006	MN	
Memorial Health 4700 Waters Avenue Savannah, GA 31403	110036	09/06/2006	GA	
St. Luke's Regional Medical Center, Ltd. 190 E. Bannock Street Boise, ID 83712	130006	09/06/2006	ID	
Radiology Consultants Imaging Center 400 Avenue K, SE Winter Haven, FL 33880	U3944	09/06/2006	FL	
Patient Comprehensive Cancer Center 4352 North Josey Lane Carrollton, TX 75010	0083BY	09/06/2006	TX	
The University of Tennessee Medical Center 1924 Alcoa Highway Knoxville, TN 37920	440015	09/06/2006	TN	
Radiation Therapy Regional Centers-Naples 800 Goodlette Road Suite 110 Naples, FL 34102	77215	09/06/2006	FL	
St. Mary's Medical Center 2900 First Avenue Huntington, WV 25702	510007	09/06/2006	WV	
McKinney Regional Cancer Center 4601 Medical Center Drive McKinney, TX 75069	00711W	09/06/2006	TX	
WCA Hospital	330239	09/06/2006	NY	207 Foote Avenue

PO Box 840 Jamestown, NY 14701				
Grants Pass Imaging and Diagnostic Center, LLC 1619 NW Hawthorne Suite 110 Grants Pass, OR 97526	1659307973	09/06/2006	OR	
Baptist Memorial Hospital-Golden Triangle 2520 5th Street North Columbus, MS 39705	250100	09/06/2006	MS	
Florida Medical Clinic 13417 US Highway 301 Dade City, FL 33525	39715	09/06/2006	FL	
Saint Clare's Hospital 400 West Blackwell Street Dover, NJ 07801	310067	09/06/2006	NJ	
Radiation Medicine Associates 2202 South 77 Sun Shine Strip Suite E Harlingen, TX 78550	00645N	09/06/2006	TX	
The Radiology Clinic, LLC 208 McFarland Circle North Tuscaloosa, AL 35406	13089	09/06/2006	AL	
Bay Area Hospital 1775 Thompson Road. Coos Bay, OR 97420	30090	09/06/2006	OR	
MMI/St. Mary's Hospital 51 US Route 1 Scarborough, ME 04074	327079	09/06/2006	ME	Suite O
Gulf Coast Medical Diagnostic Center 2024 State Avenue Panama City, FL 32405	30930	09/06/2006	FL	
Diagnostic Radiology Systems, Inc. 1010 Medical Center Drive Powderly, KY 42366	9366001	09/06/2006	KY	
Lewis Gale Medical Center	490048	09/06/2006	VI	

1900 Electric Road Salem, VA 24153				
Radiology Diagnostic Center 1310 Las Tablas Road Suite 103 Templeton, CA 93465	W7491	09/06/2006	CA	
Weslaco Nuclear Imaging Center 913 S. Airport Drive Weslaco, TX 78596	1780796219	09/06/2006	TX	
Pioneer PET, LLC 1930 E. Southern Avenue Tempe, AZ 85282	1265401996	12/05/2006	AZ	
Kearney Imaging Center, LLC 3219 Central Avenue Suite 109 Kearney, NE 68847	98950	12/05/2006	NE	
Rose Medical Center 4567 East 9th Avenue Denver, CO 80220	841321373	12/05/2006	CO	
UCSF Medical Center 185 Berry Street San Francisco, CA 94107	50454	12/05/2006	CA	Lobby 7 Suite 180
Broward General Medical Center 1500 S. Andrews Avenue Fort Lauderdale, FL 33316	100039	12/05/2006	FL	
St. Paul Radiology, PA/Midwest Radiology 166 Fourth Street East St. Paul, MN 55101	CO2661	12/05/2006	MN	
Queen of the Valley Hospital 1000 Trancas Street Napa, CA 94558	941243669	12/05/2006	CA	
Dana-Farber Cancer Institute 44 Binney Street Boston, MA 02115	220162	12/05/2006	MA	

Holmes Regional Medical Center 1350 South Hickory Street Melbourne, FL 32901	100019	12/05/2006	FL	
Niagara County PET Center Niagara Falls, NY 14302	f27482	12/05/2006	NY	621 Tenth Street Department of Radiology
Augusta Medical Center 78 Medical Center Drive Fishersville, VA 22939	490018	12/05/2006	VA	
Nevada Cancer Center 2851 North Tenaya Way Las Vegas, NV 89128	VWQBHJ	12/05/2006	NV	#100
Wellstar Kennestone Hospital Imaging Center 340 Kennestone Hospital Boulevard Marietta, GA 30060	110035	12/05/2006	GA	Suite LL10
Ashtabula County Medical Center 2412 Lake Avenue Ashtabula, OH 44004	1285607416	12/05/2006	OH	The Regional Cancer Center
Rowan Regional Medical Center 514 Corporate Circle Salisbury, NC 28147	340015	12/05/2006	NC	
The Pottsville Hospital and Warne Clinic 420 South Jackson Street Pottsville, PA 17901	390030	12/05/2006	PA	
Georgetown Memorial Hospital 606 Blackriver Road Georgetown, SC 29442	1982604021	12/05/2006	SC	
Medical Center of Arlington 3301 Matlock Road Arlington, TX 76015	450675	12/05/2006	TX	
Valley View Regional Hospital 430 N. Monte Vista Ada, OK 74820	370020	12/05/2006	OK	

Montgomery Medical Services 644 Maysville Road, Suite 10 Mount Sterling, KY 40353	9141	12/05/2006	KY	
Medical Outsourcing Services, LLC 5409 N. Knoxville Avenue Peoria, IL 61614	211224	12/05/2006	IL	
Medical Outsourcing Services, LLC 1300 N. Main Street Rushville, IN 46173	223260	12/05/2006	IN	
Mayo Clinic Arizona 13400 E. Shea Boulevard Scottsdale, AZ 85259	WCTGB	12/05/2006	AZ	
Door County Memorial Hospital 323 S. 18th Avenue Sturgeon Bay, WI 54235	1093743874	12/05/2006	WI	
Center for Diagnostic Imaging-Sartell 166 19th Street S. Sartell, MN 56377	C01307	12/05/2006	MN	Suite 100
South Texas Institute of Cancer 1205 South 19th Street Corpus Christi, TX 78405	0065AZ	12/05/2006	TX	
Del Sol Medical Center 10460 Vista Del Sol El Paso, TX 79925	450646	12/05/2006	TX	
University Hospital 818 St. Sebastian Way Augusta, GA 30901	110028	12/05/2006	GA	Suite 103
St. John Health System-Tulsa, OK 1923 S. Utica Avenue Tulsa, OK 74104	370114	12/05/2006	OK	
Allen Memorial Hospital 1825 Logan Avenue Waterloo, IA 50703	160110	12/05/2006	IA	
Craig General Hospital 735 North Foreman Street	370065	12/05/2006	OK	

Vinita, OK 74301				
Vision Imaging of Kingston 517 Pierce Street Kingston, PA 18704	86463	12/05/2006	PA	
Lake Hospital Mentor Campus 9485 Mentor Avenue Mentor, OH 44060	360098	12/05/2006	OH	Attn: Suite A
Excela RCL PET CT Imaging, LLC 200 Village Drive Greensburg, PA 15601	1144260415	12/05/2006	PA	
Kousay Al-Kourainy, MD 5395 Ruffin Road #202 San Diego, CA 92123	A39783	12/05/2006	CA	
Memorial Hermann Northwest Hospital 1635 North Loop West Houston, TX 77008	450184	12/05/2006	TX	
Accu/Site PET/CT Imaging Center 30 Harrison Street Johnson City, NY 13790	DD1474	12/05/2006	NY	Suite #102
DDIS-Bond 9 Bond Street Brooklyn, NY 11201	687s41	12/05/2006	NY	
West Valley Radiology Medical Group 7301 Medical Center Drive West Hills, CA 91307	Hw5870A	12/05/2006	CA	Suite 103
Westside Diagnostic and Therapeutic Medical Center, LLC 12524 West Washington Boulevard Los Angeles, CA 90066	TG472	12/05/2006	CA	
DDIS-Still 1783 Stillwell Avenue Brooklyn, NY 11223	687s41	12/05/2006	NY	
Alpena Regional Medical Center	386000029	12/05/2006	MI	

1501 W, Chisholm Street Alpena, MI 49707				
Santa Monica Imaging Center 1245 16th Street Suite 105 Santa Monica, CA 90404	1881670248	12/05/2006	CA	
Mercer County Community Hospital 800 W. Main Street Coldwater, OH 45828	360058	12/05/2006	OH	
Johnson Memorial Hospital 1125 W. Jefferson Street Franklin, IN 46131-2675	150001	12/05/2006	IN	PO Box 549
St. Mary's Health Center 100 St. Mary's Medical Plaza Jefferson City, MO 65101	260011	12/05/2006	MO	
Eastside PET Center, LLC 46 Medical Park East Drive Birmingham, AL 35023	1619925070	12/05/2006	AL	Suite 224
United Regional Health Care System 1600 8th Street Wichita Falls, TX 76301	450010	12/05/2006	TX	
Denton Regional Medical Center 3535 S. I-35 Denton, TX 76210	450634	12/05/2006	TX	
Canton-Potsdam Hospital 50 Leroy Street Potsdam, NY 13676	161012691	12/05/2006	NY	
St. John Macomb Hospital 11800 E. 12 Mile Road Warren, MI 48093	230195	12/05/2006	MI	
Cleveland Regional Medical Center 201 East Grover Street Shelby, NC 28150	340021	12/05/2006	NC	
Bluefield Regional Medical Center	510071	12/05/2006	WV	

500 Cherry Street Bluefield, WV 24701				
Charles Cole Memorial Hospital 1001 East Second Street Coudersport, PA 16915	390246	12/05/2006	PA	
New Jersey State Open MRI 155 State Street Hackensack, NJ 07601	85238	12/06/2006	NJ	
Westcoast Radiology 501 S. Lincoln Ave. Clearwater, FL 33756	E4187	12/06/2006	FL	
The Iowa Clinic / PETCO, LLC 1221 Pleasant Street Des Moines, IA 50309	I5819	12/06/2006	IA	
Quantum PET-Holy Spirit Hospital 890 Poplar Church Road Camp Hill, PA 17011	40635	12/06/2006	PA	
Coastal Bend PET Scan, Ltd. 1533 5th Street Corpus Christi, TX 78404	FTN014	12/06/2006	TX	
Pottstown Memorial Medical Center 1600 E. High Street Pottstown, PA 19464	390123	12/06/2006	PA	
UTMB PET/CT Imaging Center UTMB-Rebecca Sealy Hospital Galveston, TX 77555-0793	R518	12/06/2006	TX	301 University Blvd.
Diagnostic Imaging Services, LLC 11110 Medical Campus Road, Suite 204 Hagerstown, MD 21742	1114982808	12/06/2006	MD	
North Memorial Medical Center 3435 West Broadway Robbinsdale, MN 55422	1851344907	12/06/2006	MN	
Hays Medical Center 2220 Canterbury Drive	2473	12/06/2006	KS	

Hays, KS 67601				
St. Patrick Hospital & Health Sciences Center 500 West Broadway Missoula, MT 59802	1023032588	12/06/2006	MT	
Park Ridge Hospital 100 Hospital Drive Hendersonville, NC 28792	340023	12/06/2006	NC	
Fostoria Community Hospital 610 Plaza Drive Fostoria, OH 44830	361318	12/06/2006	OH	
UMDNJ-University Hospital 30 Bergen Street Newark, NJ 07101	221775306	12/06/2006	NJ	ADMC 5 Room 575 P.O. Box 1709
Metabolic Imaging of Boca 5458 Town Center Road Suite 103 Boca Raton, FL 33486	E5434	12/06/2006	FL	
Olean Open MRI 413 North 8th Street Olean, NY 14760	AA0996	12/06/2006	NY	
Mercy Memorial Health Center 1011 14th Avenue NW Ardmore, OK 73401	731500629	12/06/2006	OK	
Pontiac Osteopathic Hospital d.b.a. POH Medical Center 385 N. Lapeer Road Oxford, MI 48371	230207	12/06/2006	MI	
Texas Oncology Ft. Worth 1450 8th Avenue Fort Worth, TX 76104	00R66C	12/06/2006	TX	
West Valley Imaging 3025 S. Rainbow Boulevard Las Vegas, NV 89146	WQBDY	12/06/2006	NV	
Springman Medical Plaza Imaging Center PO Box 4650 Brownsville, TX 78523	1912973108	12/06/2006	TX	

EMH Regional Health Care System 630 East River Street Elyria, OH 44035	360145	12/06/2006	OH	
Denfeld Medical Center 4702 Grand Avenue Duluth, MN 55807	C06028	12/06/2006	MN	
Caldwell Memorial Hospital 321 Mulberry Street SW Lenoir, NC 28645	560554202	12/06/2006	NC	
Belleville, IL (Swansea) 4253 Argosy Court Madison, WI 53714	208196	12/06/2006	WI	
Comprehensive Cancer Centers of Nevada - NW Office 7445 Peak Drive Las Vegas, NV 89128	WCHCX	12/06/2006	NV	
Wheaton Francisan Healthcare-St. Joseph 5000 W. Chambers Street Milwaukee, WI 53210	520136	12/06/2006	WI	
United Hospital Center Rt. 19 South Clarksburg, WV 26302-1680	510006	12/06/2006	WV	#3 Hospital Plaza
Massena Memorial Hospital 1 Hospital Dive Massena, NY 13662	330223	12/06/2006	NY	
Redlands Community Hospital 350 Terracina Boulevard Redlands, CA 92373	ZZZ01782Z	12/06/2006	CA	
The Valley Hospital 1 Valley Health Plaza Paramus, NJ 07652	310012	12/06/2006	NJ	
Advanced Medical Imaging of Toms River 1430 Hooper Avenue Toms River, NJ 08753	447655	12/06/2006	NJ	Suite 102

McKenna Memorial Hospital 598 N. Union Street New Braunfels, TX 78130	450059	12/06/2006	TX	
NSMS-Parkland Farmington, Mo 4253 Argosy Court Madison, WI 53714	208196	12/06/2006	WI	
Alton Memorial Hospital 1 Memorial Drive Alton, IL 62002	14002	12/06/2006	IL	
Medical City Dallas Hospital Diagnostic Imaging Dallas, TX 75230	20943901	12/06/2006	TX	7777 Forest Lane
Mercy Medical Center 301 St. Paul Place Baltimore, MD 21202	210008	12/06/2006	MD	
St. Joseph's Medical Center 503 N. 3rd Street Brainerd, MN 56401	240075	12/06/2006	MN	
Covenant Healthcare 600 Irving Street Saginaw, MI 48602	1457354318	12/06/2006	MI	
Little Company of Mary Hospital 2800 West 95th Street Evergreen Park, IL 60805	140179	12/06/2006	IL	
Marion General Hospital Progressive Medical Imagine 830 N. Theatre Drive Marion, IN 46952	1457354318	12/06/2006	IN	
Escondido Pulmonary Medical Group 5395 Ruffin Road Suite 202 San Diego, CA 92123	W301	12/06/2006	CA	
Marshall Medical Center 1100 Marshall Way Placerville, CA 95667	50254	12/06/2006	CA	
Clermont Radiology 1804 Oakley Seaver Drive Clermont, FL 34711	U5066	12/06/2006	FL	Suite B

Mahoning Valley Imaging, Ltd. 7067 Tiffany Boulevard Youngstown, OH 44514	1457354318	12/06/2006	OH	
Southeastern Ohio Regional Medical Center 1341 Clark Avenue Cambridge, OH 43725	1457354318	12/06/2006	OH	
White County Medical Center 3214 E. Race Avenue Searcy, AR 72143	40014	12/06/2006	AR	
MED Arts JVIC 9101 Franklin Square Drive Baltimore, MD 21237	1932167178	12/06/2006	MD	
Memorial Hermann Southwest OPID 7797 SW Freeway Houston, TX 77074	741152597	12/06/2006	TX	
Twin County Regional Hospital 200 Hospital Drive Galax, VA 24333	1174524094	12/06/2006	VA	
Marion Ancillary Services, LLC 1040 Delaware Avenue Marion, OH 43302	991	12/06/2006	OH	
Owensboro Medical Health Systems Breckenridge Diagnostics Owensboro, KY 42301	180038	12/06/2006	KY	1020 Breckenridge Street
NSMS-Darlington, WI 209 Limestone Pass Cottage Grove, WI 53527	92420	12/06/2006	WI	
Santa Fe Imaging, LLC 1640 Hospital Drive Santa Fe, NM 87505	400521037	12/06/2006	NM	
Suncoast Imaging of Port Orange 1680 Dunlawton Avenue Port Orange, FL 32127	40370B	12/06/2006	FL	
Great Basin Imaging 2874 N Carson Street 3rd Floor	WJBDK	12/06/2006	NV	

Carson City, NV 89706				
St. Francis Hospital & Health Centers 1201 Hadley Road Mooresville, IN 46158	1457354318	12/06/2006	IN	
Las Colinas Cancer Center 7415 Las Colinas Boulevard Irving, TX 75063	00J062	12/06/2006	TX	
ADI 4006 Jonathan Street Waterloo, IA 50701	I15454	12/06/2006	IA	
St Francis Hospital & Health Centers South 8111 S. Emerson Avenue Indianapolis, IN 46237	1457354318	12/06/2006	IN	
Central Baptist Diagnostic Center 100 Southland Drive Lexington, KY 40503	9375001	06/14/2006	KY	Suite B
Baptist Health Medical Center-NLR PET/CT 3500 Springhill Drive North Little Rock, AR 72117	5F437	05/03/2007	AR	Suite 100
Commonwealth Hematology Oncology 216 Southtown Drive Danville, KY 40422	1285687178	03/21/2007	KY	
Commonwealth Hematology Oncology 95 Bogle Office Park Drive Somerset, KY 42503	1285687178	03/21/2007	KY	
UMPC and The Washington Hospital Cancer Center 155 Wilson Avenue Washington, PA 15301	105589VXB	03/10/2006	PA	
Lexington Diagnostic Center 1725 Harrodsburg Road Suite 100 Lexington, KY 40504	0406	03/08/2006	KY	

UW PET Imaging Center 8007 Excelsior Drive Madison, WI 53717	1346266319	04/03/2007	WI	
Fort Wayne Medical Oncology and Hematology 7910 W. Jefferson Boulevard Suite 107 Ft. Wayne, IN 46804	055770	04/23/2007	IN	
Danbury Hospital 24 Hospital Avenue Danbury, CT 06810	070033	04/23/2007	CT	
Reno Diagnostic Centers 590 Eureka Avenue Reno, NV 89512	1518904994	04/24/2007	NV	
The Kirklin Clinic PET-CT Facility 2000 6th Ave South Birmingham, AL 35233	10933768723	05/07/2007	AL	
PET Imaging Radiology, PSC Paseo San Pablo 100 Bayamon, PR	0085142	05/15/2007	PR	EDIF Dr. Arturo Cadilla Suite 208
Punxsutawney Area Hospital 81 Hillcrest Drive Punxsutawney, PA 15767	390199	05/15/2007	PA	
Princeton Baptist Medical Center 701 Princeton Avenue SW Birmingham, AL 35211	35211	05/30/2007	AL	
Medical Arts Radiology Commack 55 Veterans Memorial Highway Commack, NY 11725	W11682	05/31/2007	NY	
Carrol, Sheth & Raghavan, MD 1460 Bluegrass Avenue Louisville, KY 40215	5460	06/05/2007	KY	
Personal Care Molecular Imaging 1514 Highway 138 Wall, NJ 07719	109631	06/06/2007	NJ	
Lincoln Radiology Imaging	099920	06/06/2007	NE	

7121 Stephanie Lane Lincoln, NE 68516				
Medcenter One 300 North 7th Street Bismark, ND 58506-5525	1538245634	07/24/2007	ND	
Wheaton Franciscan Healthcare - All Saints 3801 Spring Street Racine, WI 53405	520096	08/08/2007	WI	N/A
Diagnostic Centers of America 6080 Boynton Boulevard Suite 140 Boynton Beach, FL 33437	E4439	08/22/2007	FL	N/A
Center for Integrative Cancer Medicine, P.A 1733 Curie Drive Suite 305 El Paso, TX 79902	00315U	08/22/2007	TX	N/A
St. Luke's Hospital 1026 A Avenue N.E. Cedar Rapids, IA 52406-3026	160045	08/22/2007	IA	N/A
Shared PET Imaging, LLC - Cincinnati OH Eden Avenue & Albert Sabin Way Cincinnati, OH 45219	ID01511	08/22/2007	OH	N/A
Integrated Magnetic Imaging 7100 University Court Montgomery, AL 36117	7811	08/22/2007	AL	N/A
Northwest PET Imaging 265 N. Broadway Street Portland, OR 97227	105512	08/22/2007	OR	N/A
Center for Diagnostic Imaging - St. Louis Park 5775 Wayzata Boulevard #190 St. Louis Park, MN 55416	C01307	08/22/2007	MN	N/A
Ponca City Medical Center	370006	08/22/2007	OK	N/A

1900 North 14th Street Ponca City, OK 74601				
Sanford Health 1305 W. 18th Street Sioux Falls, SD 57117	430027	08/22/2007	SD	N/A
Central Valley PET Imaging 4744 Quail Lake Drive Stockton, CA 95207	00A484230	08/22/2007	CA	N/A
PET/CT Imaging Center 4000 N. Illinois Lane Swansea, IL 62226	201339	08/22/2007	IL	PET/CT Imaging Center
Memorial Medical Center 1105 W. Frank Avenue Suite 100 Lufkin, TX 75901	450211	08/22/2007	TX	d.b.a. Temple Imaging Center
Rockingham Memorial Hospital 235 Cantrell Ave Harrisonburg, VA 22801	490004	08/22/2007	VA	N/A
Regions Imaging Center 401 Phalen Boulevard 41101C St. Paul, MN 55101	240106	08/22/2007	MN	N/A
Florida Hospital Imaging, LLC 335 Clyde Morris Boulevard Suite 250 Ormond Beach, FL 32174	1104876358	08/22/2007	FL	N/A
Hutchinson Clinic, PA 2101 North Waldron Street Hutchinson, KS 67502	1043298474	08/22/2007	KS	N/A
Parkwest Imaging 3676 Parker Boulevard Pueblo, CO 81008	455838	08/22/2007	CO	N/A
St. Clair Hospital/UPMC Cancer Center PET/CT 1000 Bower Hill Road Pittsburgh, PA 15243	1699708792	08/22/2007	PA	N/A
St. Joseph Mercy Oakland (SJMO) 44405 Woodward Avenue	1457354318	08/22/2007	MI	N/A

Pontiac, MI 48341				
Edward Hospital 801 S. Washington Street Naperville, IL 60540	140231	08/22/2007	IL	N/A
East Montgomery Imaging Center 6880 Winton Blount Boulevard Montgomery, AL 36117	58866	08/22/2007	AL	N/A
Memorial Hospital of Martinsville and Henry County 320 Hospital Drive Martinsville, VA 24112	490079	08/22/2007	VA	N/A
Thomas Hospital 750 Morphy Avenue Fairhope, AL 36532	10100	08/22/2007	AL	N/A
Portland Adventist Medical Center 10123 SE Market Street Portland, OR 97216	380060	08/22/2007	OR	N/A
Nash Healthcare System, Inc. 2460 Curtis Ellis Drive Rocky Mount, NC 27804	340147	08/22/2007	NC	N/A
North Broward Medical Center 201 E. Sample Road Deerfield Beach, FL 33064	100068	08/22/2007	FL	Radiology
Jennie Stuart Medical Center 320 West 18th Street Hopkinsville, KY 42240	180051	08/22/2007	KY	N/A
Greater Houston Imaging, L.P. 6565 West Loop South Suite 100 Bellaire, TX 77401	FTNPX1	08/22/2007	TX	N/A
Sunrise Hospital Medical Center 3186 South Maryland Parkway Las Vegas, NV 89109	290003	08/22/2007	NV	N/A
The Diagnostic and Treatment Center 3401 Cranberry Boulevard Weston, WI 54476	92450	08/22/2007	WI	N/A

Ochsner Medical Center 1514 Jefferson Highway New Orleans, LA 70121	720502505	08/22/2007	LA	N/A
Inland Empire Medical Imaging 225 W. Hospitality Lane Suite #100 San Bernardino, CA 92408	zzz316682	08/22/2007	CA	N/A
Independent Nuclear PET Imaging 1115 N. Parrott Avenue Okeechobee, FL 34972	1922070796	08/22/2007	FL	N/A
Hugh Chatham Memorial Hospital 180 Parkwood Drive Elkin, NC 28621	340097	08/22/2007	NC	N/A
Marian Medical Center/Plaza Diagnostic Imaging 525 E. Plaza Drive Santa Maria, CA 93454	50107	08/22/2007	CA	N/A
DDIS-FH 8002 Kew Gardens Road Kew Gardens, NY 11415	687s41	08/22/2007	NY	N/A
NYPH-Weill Cornell 525 E 68th Street New York, NY 10021	131623978	08/22/2007	NY	N/A
Genesys Regional Medical Center One Genesys Parkway Grand Blanc, MI 48439-8066	230197	08/22/2007	MI	N/A
Geisinger Medical Center 100 North Academy Avenue Danville, PA 17822	390006	08/22/2007	PA	N/A
Citrus Diagnostic Center 922 N Citrus Avenue Crystal River, FL 34428	K5374	08/22/2007	FL	N/A

Middlesex Hospital 534 Saybrook Road Middletown, CT 6457	70020	08/22/2007	CT	N/A
Geisinger Wyoming Valley Medical Center 1000 East Mountain Drive Wilkes-Barre, PA 18711	390270	08/22/2007	PA	N/A
Canton, IL - Northern Shared Medical Services 209 Limestone Pass Cottage Grove, WI 53527	208196	08/22/2007	WI	N/A
Self Regional Healthcare 102 Academy Street Greenwood, SC 29646	420071	08/22/2007	SC	N/A
Bristol Hospital Brewster Road Bristol, CT 06011	70029	08/22/2007	CT	P.O. Box 977
East Texas Hematology & Oncology Clinic, PA 1202 West Frank Avenue Lufkin, TX 75904	00T37K	08/22/2007	TX	N/A
St. John River District Hospital 4100 River Road East China, MI 48054	230241	08/22/2007	MI	N/A
Morgan Hospital 2209 John R Wooden Drive Martinsville, IN 46151	150038	08/22/2007	IN	N/A
Cotton-O'Neil Cancer Center 1414 SW 8th Street Topeka, KS 66606	1811944457	08/22/2007	KS	N/A
Barnes-Jewish West County Hospital 12634 Olive Boulevard St Louis, MO 63141	260162	08/22/2007	MO	N/A
Hardin Memorial Hospital 913 North Dixie Avenue Elizabethtown, KY 42701	180012	08/22/2007	KY	N/A
Cancer Institute of Florida, LLC 894 E. Altamonte Drive	72793	08/22/2007	FL	N/A

Altamonte Springs, FL 32701				
Community Hospital, New Port Richey 5637 Marine Parkway New Port Richey, FL 34652	100191	08/22/2007	FL	N/A
Pulaski Community Hospital 2400 Lee Highway Pulaski, VA 24301	490116	08/22/2007	VA	N/A
Advocate South Suburban Hospital 17800 S. Kedzie Avenue Hazel Crest, IL 60429	3.62169E+11	08/22/2007	IL	N/A
St. Vincent's Medical Center 2800 Main Street Bridgeport, CT 6606	70028	08/22/2007	CT	N/A
Cayuga Medical Center at Ithaca 3218 Wilkins Road Ithaca, NY 14850	330307	08/22/2007	NY	N/A
Immanuel-ST Josephs Mayo Health Stystem 1025 Marsh Street Mankato MN 56002-8673	240093	08/22/2007	MN	PO Box 8673
Kell West Regional Hospital 5420 Kell West Boulevard Wichita Falls, TX 76310	450827	08/22/2007	TX	N/A
Aurora Medical Center Kenosha 10400 75th Street Kenosha, WI 53142	520189	08/22/2007	WI	N/A
Aurora Lakeland Medical Center W3985 County Rd Nn Elkhorn, WI 53121	520102	08/22/2007	WI	N/A
Munson Medical Center 1105 Sixth Street Traverse City, MI 49684	230097	08/22/2007	MI	N/A
Kansas City Cancer Center - North 8700 Greenhills Road Kansas City, MO 64154	5650000E	08/22/2007	MO	N/A

PET Imaging Center of Maine 885 Union Street Suite 115 Bangor, ME 04401	10211501	08/22/2007	ME	N/A
SMS - Chester, IL 1900 State Street Chester, IL 62233	208196	08/22/2007	IL	N/A
PET of Reston, LP 1800 Town Center Drive Suite 115 Reston, VA 20190	G01960P03	08/22/2007	VA	N/A
Healthcare Imaging Center 4334 Central Ave Riverside, CA 92506	ZZZ14451Z	08/22/2007	CA	N/A
Robert Wood Johnson University Hospital at Hamilton 1 Hamilton Health Place Hamilton, NJ 08690	310110	08/22/2007	NJ	N/A
Northside Hospital 1000 Johnson Ferry Road Atlanta, GA 30342	110161	08/22/2007	GA	N/A
Aurora Medical Center Kenosha 10400 75th Street Kenosha, WI 53142	520189	08/22/2007	WI	N/A
Partners Imaging Center of Sarasota 1250 S. Tamiami Trail Suite 103 Sarasota, FL 34239	Q0353	08/22/2007	FL	N/A
Memorial Medical Center 216 Sunset Place Neillsville, WI 54456	521323	08/22/2007	WI	N/A
Central Virginia Imaging, LLC 1900 Tate Spings Road Suite 21 Lynchburg, VA 24501	1578594412	08/22/2007	VA	N/A
Los Alamitos Medical Center 3951 Katella Ave Los Alamitos, CA 90720	50551	08/22/2007	CA	N/A
Valley Advanced Imaging, LLC	1417907023	08/22/2007	PA	N/A

2403 Butler Street Easton, PA 18042				
Good Samaritan PET/CT and Imaging services 1245 Montauk Hwy West Islip NY 11795	330286	08/22/2007	NY	N/A
Scotland Memorial Hospital 500 Lauchwood Drive Laurinburg, NC 28352	340008	08/22/2007	NC	N/A
McFarland Clinic, P.C. 1111 Duff Avenue Ames, IA 50010	1639135643	08/22/2007	IA	N/A
Providence Hospital 1150 Varnum Street NE Washington, DC 20017	90006	08/22/2007	DC	N/A
The Angeles Clinic and Research Institute 11818 Wilshire Boulevard Suite 200 Los Angeles, CA 90025	W15185A	08/22/2007	CA	N/A
Rose Radiology Centers, Inc. 5107 N. Armenia Avenue Tampa, FL 33603	1629162904	08/22/2007	FL	Bldg B
Texas Oncology East Houston 13111 East Freeway Houston, TX 77015	1811944101	08/22/2007	TX	N/A
NSMS - St. Joe's - Breese, IL 9515 Holy Cross Lane Breese, IL 62230	208196	08/23/2007	IL	N/A
UT Cancer Institute 7945 Wolf River Boulevard Germantown, TN 38138	3711381	08/23/2007	TN	N/A
Fresno Imaging Center 6191 N. Rhesta Avenue Fresno, CA 93710	N/A	08/23/2007	CA	N/A
Imaging Consultants Inc. at Sturdy Memorial 211 Park Street Attleboro, MA 02703	327085	08/23/2007	MA	N/A

Fairfax PET Imaging Center, LLC 8503 Arlington Boulevard Lower level Fairfax, VA 22031	1861433674	08/23/2007	VA	N/A
City Hospital, Inc. 2500 Hospital Drive Martinsburg, WV 25401	510008	08/23/2007	WV	N/A
White Plains Radiology Associates PET Center Davis and Post Roads White Plains, NY 10601	w11842	08/23/2007	NY	N/A
Lenoir Memorial Hospital 100 Airport Road Kinston, NC 28503-1678	1962446385	08/23/2007	NC	N/A
Sand Lake Imaging 9350 Turkey Lake Road Orlando, FL 32819	34896	08/23/2007	FL	SUITE 100
Advocate Lutheran General Center For Advanced Care 1800 Luther Lane Park Ridge, IL 60068	140223	08/23/2007	IL	N/A
Flower Hospital 5200 Harroun Road Sylvania, OH 43560	360074	08/23/2007	OH	N/A
Dekalb Memorial Hospital 1316 E. 7th Street Auburn, IN 46706	N/A	08/23/2007	IN	N/A
St. John Hospital and Medical Center 1315 Macom Drive Naperville, IL 60564	116	08/23/2007	IL	N/A
Bayhealth Medical Center 540 S. Governors Avenue Dover, DE 19904	N/A	08/23/2007	DE	N/A
ImageCare 713 Troy-Schenectady Road Suite 124 Latham, NY 12110	1922048370	08/23/2007	NY	Capital Region Health Park

Southside Regional Medical Center 801 South Adams Street Petersburg, VA 23803	490067	08/23/2007	VA	N/A
East Alabama Medical Center-Auburn Diagnostic Imaging 1527 Professional Parkway Auburn, AL 36830	29	08/23/2007	AL	N/A
Trover Health System 900 Hospital Drive Madisonville, KY 42431	1457354318	08/23/2007	KY	N/A
Doctors Hospital at Renaissance, Ltd 5501 S. McColl Road Edinburg, TX 78359	450869	08/23/2007	TX	N/A
Twin Lakes Imaging Center 1890 LPGA Boulevard Daytona Beach, FL 32117	1023040870	08/23/2007	FL	Suite 110
Nathan Littauer Hospital 99 E. State Street Gloversville, NY 12078	330276	08/23/2007	NY	N/A
Altoona Regional Health System 620 Howard Avenue Altoona, PA 16601	390073	08/23/2007	PA	N/A
Warren General Hospital 2 Crescent Park West Warren, PA 16365	390146	08/23/2007	PA	N/A
Reid Hospital Health Care Services 1401 Chester Boulevard Richmond, IN 47374	1457354318	08/23/2007	IN	N/A
Orange City Area Health System 1000 Lincoln Circle SE Orange City, IA 51041	161360	08/23/2007	IA	N/A
Mercy Hospital Clermont 3000 Hospital Drive Batavia, OH 45103	1457354318	08/23/2007	OH	N/A
Arroyo Grande Community Hospital	50016	08/23/2007	CA	N/A

345 South Halcyon Road Arroyo Grande, CA 93454				
HealthEast St. John's Hospital 1575 Beam Avenue Maplewood, MN 55109	240210	08/23/2007	MN	N/A
St. Joseph's/Candler Health System 5353 Reynolds Street Savannah, GA 31405	110024	08/23/2007	GA	N/A
NSMS - Pickneyville, IL 101 North Walnut Street Pinckneyville, IL 62274	208196	08/23/2007	IL	N/A
Duke Raleigh Hospital 3400 Wake Forrest Road Raleigh, NC 27609	340073	08/23/2007	NC	N/A
Advanced Radiology Services & The Center for Women 400 Plaza Court East Stroudsburg, PA 18301	33012	08/23/2007	PA	Suite C
Community Hospital 10020 Donald S. Powers Drive Munster, IN 46321	140125	08/23/2007	IN	N/A
Avant Imaging - Woodland Health Center 7575 Grand River Avenue Brighton, MI 48114	1457354318	08/23/2007	MI	N/A
EVDI Medical Imaging - East Mesa 6424 E. Broadway Road Mesa, AZ 85206	1164434098	08/23/2007	AZ	Suite 101
NSMS - St. Louis, Mo - ARCH Medical 209 Limestone Pass Cottage Grove, WI 53527	47013	08/23/2007	WI	N/A
CNY PET LLC 5100 West Taft Road Liverpool, NY 13088	AA0672	08/23/2007	NY	Suite 2C
MCMI 3000 Telegraph Avenue	ZZZ27496Z	08/23/2007	CA	N/A

Oakland, CA 94609				
Green Clinic, LLC 1200 S. Farmerville Street Ruston, LA 71270	57387	08/23/2007	LA	N/A
Fayette Memorial Hospital 3542 North Western Avenue Connersville, IN 47331	150064	08/23/2007	IN	N/A
Carolinas Medical Center - Union 600 Hospital Drive Monroe, NC 28112	340130	08/23/2007	NC	Nuclear Medicine Department
Citrus Medical Imaging Associates, Inc. 1000 Lakes Drive Suite 170 West Covina, CA 91790	HW2326	08/23/2007	CA	N/A
Radiation Oncology at WFUBMC Radiation Oncology Medical Center Boulevard Winston-Salem, NC 27152	340047	08/24/2007	NC	Wake Forest University Baptist Medical Center Comprehensive Cancer Center
Harrison County Hospital 245 Atwood Street Corydon, IN 47112	151331	08/24/2007	IN	N/A
Thibodaux Regional Medical Center 602 North Acadia Road Thibodaux LA 70301	190004	08/24/2007	LA	N/A
NSMS - Hot Springs, AR 1600 Higdon Ferry Road Hot Springs AR 71913	5F168	08/24/2007	AR	N/A
Pacific Oncology, PC 15700 SW Greystone Court Beaverton OR 97006	1043262116	08/24/2007	OR	N/A
Cancer Care Associates 1791 E. Fir Avenue Fresno, CA 93720	222375652	08/24/2007	CA	N/A

Massatusetts Mobile PET, PC- - Newburyport 25 Highland Avenue Newburyport, MA 01950	327086	08/24/2007	MA	N/A
Hematology Oncology Associates of Illinois 6801 West 34th Street Berwyn, IL 60402	218890	08/24/2007	IL	Suite 107
Massatusetts Mobile PET, PC - Haverhill 140 Lincoln Avenue Haverhill, MA 01830	327086	08/24/2007	MA	N/A
Corinth Medical Group 4851 I35 East Suite 101 Corinth, TX 76210	00K22X	08/24/2007	TX	N/A
New England PET Imaging Manchester One Elliot Way Manchester, NH 03103	327081	08/24/2007	NH	N/A
The Surgery Clinic 1026 Goodyear Avenue Gadsden, AL 35999	N/A	08/24/2007	AL	Suite B-101
Boston Medical Center 830 Harrsion Avenue Boston, MA 02118	220031	08/24/2007	MA	Suite 1600
Mercy Health Center 4190 24th Avenue Fort Gratiot, MI 48059	1457354318	08/24/2007	MI	N/A
The Cancer Center of Santa Barbara 300 W. Pueblo Street Santa Barbara, CA 93105	W13890	08/24/2007	CA	N/A
Milford Memorial Hospital Bayhealth Medical Center 21 W. Clarke Avenue Milford, DE 19963	N/A	08/24/2007	DE	N/A

North Coast Cancer Care 417 Quarry Lakes Drive Sandusky, OH 44870	NO9915215	08/24/2007	OH	N/A
Palm Beach Gardens Open Imaging Center 3335 Burns Road #101 Palm Beach Gardens, FL 33408	U8767	08/24/2007	FL	N/A
Advanced Medical Imaging, LLC 1780 NW Myhre Road Silverdale, WA 98383	AB24179	08/24/2007	WA	Suite 1220
Swedish American Hospital 1401 E State Street Rockford, IL 61104	140228	08/24/2007	IL	N/A
Molecular Diagnostics of Eastern Omaha 117 North 32nd Avenue Suite 100 Omaha, NE 68131	99894	08/24/2007	NE	N/A
Kingwood Medical Center 22999 U.S. Hwy 59 Kingwood, TX 77339	1811942238	08/24/2007	TX	N/A
Health Village Imaging 1301 Route 72 West Manahawkin, NJ 08050	1194810978	08/24/2007	NJ	Suite 100
ARH Hazard 100 Medical Center Drive Hazard, KY 41701	520795508	08/24/2007	KY	N/A
Central Florida Imaging Center, Inc. 6801 US 27 N Suite E-3 Sebring, FL 33870	1427076769	08/24/2007	FL	N/A
West Texas Cancer Center 301 N Washington Avenue Odessa, TX 79761	00543K	08/24/2007	TX	N/A
Beloit Memorial Hospital 1969 West Hart Road Beloit, WY 53511	520100	08/24/2007	WY	N/A
Pinnacle Imaging Center	U5131	08/24/2007	FL	SUITE 103

2390 NW 7th Street Miami, FL 33125				
PET Imaging of El Paso 1225 E. Cliff Drive El Paso, TX 79902	FTN035	08/24/2007	TX	Building 3 Suite 200
St. Petersburg General Hospital 6500 38th Avenue North St. Petersburg, FL 33710	N/A	08/24/2007	FL	N/A
St. Mary Medical Center 1201 Langhorne-Newtown Road Langhorne, PA 19047	390258	08/24/2007	PA	N/A
St. Joseph Medical Center 1401 St. Joseph Parkway Houston, TX 77002	1154361475	08/24/2007	TX	N/A
UPMC Northwest 1671 Allegheny Boulevard Reno, PA 16343	390091	08/24/2007	PA	N/A
Mercy Hospital Fairfield 3000 Mack Road Fairfield, OH 45014	1457354318	08/24/2007	OH	N/A
Radiology Associates of West Pasco 5539 Marine Parkway New Port Richey, FL 34652	1558328963	08/24/2007	FL	N/A
St. Dominic Hospital 969 Lakeland Drive Jackson, MS 39216	250048	08/24/2007	MS	N/A
RCOA-Adventist Health-Sequoia 4949 W. Cypress Avenue Visalia, CA 93271	1427198696	08/24/2007	CA	N/A
McKee Medical Center 2000 Boise Ave Loveland, CO 80538	60030	08/24/2007	CO	N/A
Bon Secours Richmond Community Hospital 1500 North 28th Street Richmond, VA 23223	490094	08/24/2007	VA	N/A

West Houston Medical Center 12141 Richmond Avenue Houston, TX 77082	450644	08/24/2007	TX	N/A
Shands Teaching Hospital and Clinics, Inc. 2000 SW Archer Road Gainesville, FL 32608	100113	08/24/2007	FL	Radiology, Shands Medical Plaza
Tanner Medical Center 119 Ambulance Drive Carrollton, GA 30117	110011	08/24/2007	GA	N/A
OU Medical Center 700 NE 13th Street Oklahoma City, OK 73104	1780631390	08/24/2007	OK	N/A
The Medical Center of Aurora 1400 S. Potomac Street Aurora, CO 80012	60100	08/24/2007	CO	#180
AllenRidge Diagnostic Imaging Center 520 Lecanto Highway Lecanto, FL 34461	100023	08/24/2007	FL	N/A
The PET Center at BWMC 305 Hospital Drive Baltimore, MD 21061	1124016696	08/24/2007	MD	SUITE 302
Signet Diagnostic Imaging Services, LLC 8300 West Sunrise Boulevard Plantation, FL 33322	E8667	08/24/2007	FL	N/A
Adams Diagnostic Imaging 20 Expedition Trail Gettysburg, PA 17325	65290	08/24/2007	PA	Suite 102
Jennie Edmundson Hospital 933 E. Pierce Street Council Bluffs, IA 51503	160047	08/24/2007	IA	N/A
Holy Cross Hospital 4725 N. Federal Highway Fort Lauderdale, FL 33308	100073	08/24/2007	FL	Bienes Diagnostic Imaging Center
Medical University of Ohio 3000 Arlington Avenue Toledo, OH 43614	1457354318	08/24/2007	OH	N/A

Daviess Community Hospital 1314 E Walnut Street Washington, IN 47501	150061	08/24/2007	IN	Radiology Department
Jeff Anderson Regional Medical Center 2124 14th Street Meridian, MS 39301	250104	08/24/2007	MS	N/A
Modesto Imaging Center 157 E. Coolidge Avenue Modesto, CA 95350	ZZZ01977Z	08/24/2007	CA	N/A
Sioux Center Commmunity Hospital and Health Center 605 South Main Ave Sioux Center, IA 51250	161346	08/24/2007	IA	N/A
Southern Ohio Medical Center 1121 Kinneys Lane Portsmouth, OH 45662	360008	08/24/2007	OH	N/A
Massachusetts General Hospital 55 Fruit Street Boston, MA 02114	220071	08/24/2007	MA	N/A
Clinton Memorial Hospital Regional Health System 31 Farquhar Avenue Wilmington, OH 45177	316005307	08/24/2007	OH	N/A
CJW Medical Center 1401 Johnston Willis Drive Richmond, VA 23235	34632	08/24/2007	VA	N/A
Texas Oncology Weatherford 907 Foster Lane Weatherford, TX 76086	00539K	08/24/2007	TX	N/A
Sharper Imaging Diagnostic Radiology Center 3430 Tamiami Trail Port Charlotte, FL 33952	1730288515	08/24/2007	FL	Suite B
Morristown - Hamblin Healthcare System 908 W. 4th N. Street Morristown, TN 37814	1457354318	08/24/2007	TN	N/A
Puget Sound PET Imaging	115162600	08/24/2007	WA	Suite 150

6808 220th Street SW Mountlake Terrace, WA 98043				
Detar Hospital Navarro 506 E. San Antonio Street Victoria, TX 77902	450147	08/24/2007	TX	N/A
PET Imaging of Chicago 6801 West 34th Street Suite 105 Berwyn, IL 60402	214832	08/24/2007	IL	N/A
Imaging Specialists Group, Ltd. 3101 Churchill Road Flower Mound, TX 75022	1417991852	08/24/2007	TX	Suite 100
OKOmed Downtown Imaging 2101 Crawford Street Suite 115 Houston, TX 77002	1780622464	08/24/2007	TX	N/A
Clear Lake Regional Medical Center 500 Medical Center Boulevard Webster, TX 77598	1063466035	08/24/2007	TX	N/A
Norton Hospital 315 East Broadway Louisville, KY 40202	180088	08/24/2007	KY	N/A
Saratoga PET Associates, LLC 3 Emma Lane Clifton Park, NY 12065	1356357172	08/24/2007	NY	N/A
Genesis Health Care System 2800 Maple Avenue Zanesville, OH 43701	1457354318	08/24/2007	OH	N/A
Lake Cumberland Regional Hospital 27 Imaging Drive Somerset, KY 42503	1457354318	08/24/2007	KY	N/A
Saint Francis Cancer Institute 14 Doctors' Park Cape Girardeau, MO 63703	260183	08/24/2007	MO	N/A
American Health Network of IN, LLC - PET/CT 6820 Parkdale Place	1164491775	08/24/2007	IN	Suite #105

Indianapolis, IN 46254				
PET CT Nuclear Radiology, Inc. 1501 Edisicio Detantacourt, Suite 302 Fernadez Juncos Santorze, PR 909	57886	08/24/2007	PR	Fernadez Juncos Santorze
NSMS - Reedsburg, WI 2000 North Dewey Street Reedsburg, WI 53959	1295785079	08/24/2007	WI	N/A
Wayne Memorial Hospital 2700 Wayne Memorial Hospital Goldsboro, NC 27534	340010	08/24/2007	NC	N/A
InMed Diagnostic Services of IL 10419 Fleming Road Carterville, IL 62918	205040	08/24/2007	IL	N/A
Henrico Doctors' Hospital 1602 Skipwith Road Richmond, VA 23229	490118	08/24/2007	VA	N/A
Alliance Imaging - United General Hospital 2000 Hospital Drive Sedro Woolley, WA 98284	8862377	08/24/2007	WA	N/A
Spencer Municipal Hospital 1200 First Avenue East Spencer, IA 51301	1255328621	08/24/2007	IA	N/A
Radilogy LTD LaCholla Center – Diagnostic Imaging 5960 N. LaCholla Avenue Tucson, AZ 85704	1841261989	08/24/2007	AZ	N/A
Saint Elizabeth Regional Medical Center 555 South 70th Street Lincoln, NE 68510	280020	08/24/2007	NE	N/A
Bucyrus Community Hospital 629 N. Sandusky Avenue Bucyrus, OH 44820	361316	08/24/2007	OH	N/A
Mercy Hospital of Willard 110 E. Howard Street Willard, OH 44890	361310	08/24/2007	OH	N/A

Lower Columbia Pathologists 1606 East Kessler Boulevard Longview, WA 98632	745800	08/24/2007	WA	4th Floor
Newton Medical Center 600 Medical Center Drive Newton, KS 67114	170103A	08/24/2007	KS	N/A
Advanced Imaging Partners 508 Cleveland Street Great Bend, KS 67530	1295791325	08/24/2007	KS	N/A
Integrated Medical Imaging 1040 Greenwood Springs Boulevard Greenwood, IN 46143	221970	08/24/2007	IN	N/A
Avera Sacred Heart Cancer Center 501 Summit Street Yankton, SD 57078	430012	08/24/2007	SD	N/A
ValleyCare Medical Center 5555 W. Las Positas Boulevard Pleasanton, CA 94588	50283	08/24/2007	CA	N/A
NSMS - Mena, AR 311 North Morrow Street Mena, AR 71953	1295785079	08/24/2007	AR	N/A
Memorial Hospital Easton 219 S. Washington Street Easton, MD 21601	210037	08/24/2007	MD	N/A
Seattle Cancer Care Alliance 825 Eastlake Avenue E Seattle, WA 98109	500138	08/24/2007	WA	Medical Imaging
Alliance Imaging - The Vancouver Clinic 700 NE 87th Avenue Vancouver, WA 98664	8864364	08/24/2007	WA	N/A

Martin Center for Diagnostic and Imaging Services 3901 S. Fremont Avenue Springfield, MO 65804	260040	08/24/2007	MO	N/A
Aultman Hospital 2600 Sixth Street SW Canton, OH 44710	1457354318	08/24/2007	OH	N/A
Imaging Consultants, Inc. at Harrington Memorial 600 Federal Street Andover, MA 01810	327085	08/24/2007	MA	N/A
Rhode Island Pet Services at Kent County 600 Federal Street Andover, MA 01810	1538113113	08/24/2007	MA	N/A
Imaging Consultants Inc. at Hawthorn 600 Federal Street Andover, MA 01810	1851449078	08/24/2007	MA	N/A
Swedish Covenant Hospital 5145 N California Avenue Chicago, IL 60625	362179813	08/24/2007	IL	N/A
Banner Baywood Medical Center 6644 E. Baywood Avenue Mesa, AZ 85206	30088	08/24/2007	AZ	N/A
Lourdes Hospital 1530 Lone Oak Road Padukah, KY 42003	1346244126	08/24/2007	KY	N/A
St Vincent Oncology Center 8301 Harcourt Road Indianapolis, IN 46260	150084	08/24/2007	IN	N/A
United Hospital System, Inc. 9555 76th Street Pleasant Prairie, WI 53518	520021	08/24/2007	WI	N/A

East Tennessee Diagnostic Center 1450 Dowell Springs Boulevard Suite 210 Knoxville, TN 37909	1710932553	08/24/2007	TN	N/A
Nazareth Hospital 8400 Roosevelt Boulevard Philadelphia, PA 19152	390204A	08/24/2007	PA	N/A
Good Samaritan Hospital 2425 Samaritan Drive San Jose, CA 95124	50380	08/24/2007	CA	N/A
MedSpecialists Imaging Center 1064 Keene Road Dunedin, FL 34698	AB585	08/24/2007	FL	N/A
NSMS - Pekin, IL 2355 Broadway Road Pekin, IL 61544	1295785079	08/24/2007	IL	N/A
Bluegrass Regional Imaging, LLC 701 Bob-O-Link Drive Lexington, KY 40504	1871542670	08/24/2007	KY	Suite 245
Fairfax Pet Imaging Center 8503 Arlington Boulevard Fairfax, VA 22031	1831220714	08/24/2007	VA	suite 120LL
Lodi Community Hospital 225 Elyria Street Lodi, OH 44254	361303	08/24/2007	OH	N/A
Legacy Meridian Park Hospital 19260 SW 65th Avenue Suite 165 Tualatin, OR 97062	380089	08/24/2007	OR	N/A
Galion Community Hospital 269 Portland Way South Galion, OH 44833	361325	08/24/2007	OH	N/A

Oncology Hematology Associates of Central Illinois 8940 N. Wood Sage Road Peoria, IL 61615	616880	08/24/2007	IL	N/A
Mid Ohio Oncology/Hematology, Inc. 3100 Plaza Properties Boulevard Columbus, OH 43219	1376509661	08/24/2007	OH	N/A
Kentucky Imaging Center 3475 Richmond Road Lexington, KY 40509	1992876981	08/24/2007	KY	SUITE 150
Salem Community Hospital 1995 East State Street Salem, OH 44460	1639131535	08/24/2007	OH	N/A
Belmont Community Hospital 51339 National Road St. Clairsville, OH 43950	360153	08/24/2007	OH	N/A
Golder CT and MRI Center 613 North Golder Avenue Odessa, TX 79761	N/A	08/24/2007	TX	N/A
NSMS - Reedsburg, WI 2000 North Dewey Street Reedsburg, WI 53959	1295785097	08/24/2007	WI	N/A
MaineGeneral Medical Center 361 Old Belgrade Road Augusta, ME 04330	200039A	08/24/2007	ME	N/A
The Oklahoma PET Center, PLLC 5401 N. Portland Avenue Suite 330 Oklahoma City, OK 73112	569959716M	08/24/2007	OK	N/A
NSMS - Blytheville, AR 1520 North Division Street Blytheville, AR 72316	1295785079	08/24/2007	AR	N/A
NSMS - Benton, AR 1 Medical Park Drive Benton, AR 72015	1295785079	08/24/2007	AR	N/A
Mercy Health System 1000 Mineral Point Avenue	520066	08/24/2007	WI	N/A

Janesville, WI 53548				
WA Foote Memorial Hospital 205 N. East Avenue Jackson, MI 49201	230092	08/24/2007	MI	N/A
Northern MIchigan Hospital 416 Connable Avenue Petoskey, MI 49770	230105	08/24/2007	MI	N/A
Anchor Health Centers 800 Goodlette Road N. Naples, FL 34102	1174571608	08/24/2007	FL	Suite 130
New Ulm Medical Center 1324 5th North Street New Ulm, MN 56073	2880	08/24/2007	MN	N/A
Radiology Associates of Brooklyn LLP 2021 Avenue X Brooklyn, NY 11235-2905	1134244916	08/24/2007	NY	N/A
NYOH Mobile PET/CT Hudson 69 Prospect Road Hudson, NY 12534	1609863448	08/24/2007	NY	N/A
Integris Bass Baptist Health Center 600 South Monroe Enid, OK 73703	1144236571	08/24/2007	OK	N/A
Imaging Consultants Inc at Weymouth Woods 59 Performance Drive Weymouth, MA 2188	1487690335	08/24/2007	MA	N/A
St. Vincent Medical Center 2131 W. Third Street Los Angeles, CA 90057	50502	08/24/2007	CA	N/A
Caritas PET Imaging, LLC at Holyoke Medical Center 575 Beech Street Holyoke, MA 1040	327087	08/24/2007	MA	N/A
St. James Healthcare 400 South Clark Butte, MT 59701	270017	08/24/2007	MT	N/A

Inglewood Imaging Center 211 N. Prairie Avenue Inglewood, CA 90301	TD097	08/24/2007	CA	N/A
Duncan Regional Hospital 1700 Whisenant Drive Duncan, OK 73534	370023	08/24/2007	OK	PO Box 100
OhioHealth Ambulatory PET/CT 500 Thomas Lane Columbus, OH 43214	360006	08/24/2007	OH	N/A
Baylor Diagnostic Imaging Center at Junius 3900 Junius Street Suite 100 Dallas, TX 75246	450021	08/24/2007	TX	N/A
PET/CT Imaging at White Marsh 9900 Franklin Square Drive Suite D Nottingham, MD 21236	FMNX01	08/28/2007	MD	N/A
Central Baptist Diagnostic Center 100 Southland Drive Lexington, KY 40503	9375001	06/14/2006	KY	Suite B
Baptist Health Medical Center - NLR PET/CT 3500 Springhill Drive North Little Rock, AR 72117	5F437	05/03/2006	AR	Suite 100
Commonwealth Hematology Oncology 95 Bogle Office Park Drive Somerset, KY 42503	1285687178	03/21/2007	KY	N/A
Commonwealth Hematology Oncology 216 Southtown Drive Danville, KY 40422	1285687178	03/21/2007	KY	N/A
Jefferson Center City Imaging 850 Walnut Street Philadelphia, PA 19107	66277	09/07/2007	PA	N/A
EPIC Imaging Center 233 NE 102 Avenue	0000WCGNQ	09/11/2007	OR	N/A

Portland, OR 97220				
UPMC and The Washington Hospital Cancer Center 155 Wilson Avenue Washington, PA 15301	105589VXB	03/10/2006	PA	N/A
Lexington Diagnostic Center 1725 Harrodsburg Road Suite 100 Lexington, KY 40504	0406	03/08/2006	KY	N/A
UW PET Imaging Center 8007 Excelsior Drive Madison, WI 53717	1346266319	04/03/2007	WI	N/A
NorCal Imaging - Oakland 3200 Telegraph Avenue Oakland, CA 94609	ZZZ05319Z	08/22/2007	CA	N/A
NorCal Imaging – Walnut Creek 114 La Casa Via Suite #100 Walnut Creek, CA 94598	ZZZ05319Z	08/22/2007	CA	N/A
Aurora Sheboygan Memorial Imaging Center 2629 North 7th Street Sheboygan, WI 53083	520035	05/08/2008	WI	N/A
Aurora Memorial Hospital of Burlington 252 McHenry Street Burlington, WI 53105	520059	05/08/2008	WI	N/A
Aurora Medical Center - Manitowoc County 5000 Memorial Drive Two Rivers, WI 54241	520034	05/08/2008	WI	N/A
St. Mary's Medical Center 2900 First Avenue Huntington, WV 25702	510007	01/29/2009	WV	N/A
Lenox Hill Radiology & Medical Imaging 61 East 77th Street New York, NY 10021	W16681	01/29/2009	NY	N/A

NSMS - Greenville, IL 200 Health Care Drive Greenville, IL 62246	208196	01/29/2009	IL	N/A
Medical Outsourcing Services LLC-Christie Clinic 1801 West Windsor Road Champaign, IL 61821	211224	01/29/2009	IL	N/A
Dakota Radiology 2929 Fifth Street, First Floor Rapid City, SD 57701	1306892708	01/29/2009	SD	N/A
Coffeyville Regional Medical Center 1400 West Fourth Street Coffeyville, KS 67337	1285600379	01/29/2009	KS	N/A
St. Mary Medical Center 1201 Langhorne-Newtown Road Langhorne, PA 19047	390258	01/29/2009	PA	N/A
Medical Imaging Center at Windsor Oaks 1901 SE 18th Avenue Building 200A Ocala, FL 34471	97993	01/29/2009	FL	N/A
Alliance Imaging 2000 Hospital Drive Sedro-Woolley, WA 98284	8862377	01/29/2009	WA	N/A
Watauga Medical Center 336 Deerfield Road Boone, NC 28607	340051	01/29/2009	NC	N/A
Medical Outsourcing Services LLC 315 W. Old Key Dr. Peru, IN 46970	223260	01/29/2009	IN	N/A
Contemporary Imaging Associates 19900 Haggerty Road Suite 101 Livonia, MI 48152	ON63450	01/29/2009	MI	N/A
Greenwich Hospital 5 Perryridge Road	70018	01/29/2009	CT	N/A

Greenwich, CT 06830				
SMDC Health Systems 400 East Third Street Duluth, MN 55805	8200	01/29/2009	MN	N/A
Harris Regional Hospital 68 Hospital Road Sylva, NC 28779	340016	01/29/2009	NC	N/A
Community Memorial Hospital W180N8085 Town Hall Road Menomonee Falls, WI 53051	1609822881	01/29/2009	WI	N/A
LRI Lincoln Radiology Imaging 7121 Stephanie Lane Lincoln, NE 68516	99920	01/29/2009	NE	N/A
Bristol Hospital Brewster Road Bristol, CT 06010	70029	01/29/2009	CT	N/A
Mount Auburn Hospital 330 Mount Auburn Street Cambridge, MA 02138	220002	01/29/2009	MA	N/A
American Fork Hospital 170 N. 1100 E. American Fork, UT 84003	460023	01/29/2009	UT	N/A
Kentucky Imaging Center 3475 Richmond Road Suite 150 Lexington, KY 40509	1992876981	01/29/2009	KY	N/A
Bay Park Community Hospital 2801 Bay Park Drive Oregon, OH 43616	1457354318	01/29/2009	OH	N/A
Port Huron Hospital 1221 Pine Grove Avenue Port Huron, MI 48060	1457354318	01/29/2009	MI	N/A
Spring Branch Medical Center 8850 Long Point Road Houston, TX 77055	450630	01/29/2009	TX	N/A
Medical Outsourcing Services LLC 2210 Green Valley Road	248140	01/29/2009	IN	N/A

Suite 1 New Albany, IN 47150				
Medical Outsourcing Services LLC 355 Ridge Avenue Evanston, IL 60202	211222	01/29/2009	IL	N/A
Queens Hospital Center 82-68 164th Street Queens, NY 11432	330231	01/29/2009	NY	N/A
NYOH Mobile PET/CT Amsterdam 1700 Riverfront Center Amsterdam, NY 12010	1609863448	01/29/2009	NY	N/A
Providence Everett Medical Center 1717 13th Street Everett, WA 98201	500014	01/29/2009	WA	N/A
University of Miami/Sylvester Cancer Center 1475 NW 12th Avenue Miami, FL 33136	100079	01/29/2009	FL	N/A
St. Mary's Hospital Medical Center 1726 Shawano Avenue Green Bay, WI 54303	520097	01/29/2009	WI	N/A
Brazosport Regional Health System 100 Medical Drive Lake Jackson, TX 77566	450072	01/29/2009	TX	N/A
Medical Outsourcing Services LLC 1025 Maine Street Quincy, IL 62301	211224	01/29/2009	IL	N/A
The Imaging Center 499 Gloster Creek Village Suite G1 Tupelo, MS 38801	1417907536	01/29/2009	MS	N/A
NSMS - Forrest City, AR 1601 Newcastle Road	1295785079	01/29/2009	AR	N/A

Forrest City, AR 72336				
Glendale Adventist Medical Cente 1509 Wilson Terrace Glendale, CA 91206	1831188275	01/29/2009	CA	N/A
Mount Sinai Medical Center of Florida, Inc. 4300 Alton Road Miami Beach, FL 33140	100034	01/29/2009	FL	N/A
Cooper University Radiology 900 Centennial Boulevard Voorhees, NJ 08043	17983	01/29/2009	NJ	N/A
George Washington University Hospital 900 23rd Street, NW Washington, DC 10021	90001	01/29/2009	DC	N/A
Galesburg Cottage Hospital 695 N. Kellogg Street Galesburg, IL	1447221312	01/29/2009	IL	N/A
Central Florida Regional Hospital 1401 W. Seminole Boulevard Sanford, FL 32771	100161	01/29/2009	FL	N/A
Feather River Hospital 5974 Pentz Road Paradise, CA 95969	225	01/29/2009	CA	N/A
Caritas PET Imaging, LLC at Cooley Dickinson Hospital 30 Locust Street Northampton, MA 67337	1285846410	01/29/2009	MA	N/A
Shared PET Imaging, LLC for Garden City Hospital 272 West Warren Dearborn Heights, MI	1457354318	01/29/2009	MI	N/A
Florida Hospital Heartland Division -Sebring FL 4200 Sun N Lake Boulevard Sebring, FL 98284	100109	01/29/2009	FL	N/A
Good Samaritan Regional Center 700 E Norwegian Street	1427050376	01/29/2009	PA	N/A

Pottsville, PA 17901				
Austin Pet and Imaging Center 11044 Research Blvd D-100 Austin, TX 78759	1518928787	01/29/2009	TX	N/A
Ukiah Valley Medical Center 275 Hospital Drive Ukiah, CA 95482	50301	01/29/2009	CA	N/A
Longmont United Hospital 418 E. College Drive Cheyenne, WY 82007	60003	01/29/2009	WY	N/A
Grove City Medical Center 631 N Broad Street Grove City PA 16127	1023000296	01/29/2009	PA	N/A
Fulton Center Health Center 34555 Chagrin Boulevard Cleveland, OH 43567	361333	01/29/2009	OH	N/A
NSMS - Fairfield, IL 303 NW 11th Street Fairfield, IL 62837	1295785097	01/30/2009	IL	N/A
St Helena Hospital 10 Woodland Road St Helena, CA 94574	50013	01/30/2009	CA	N/A
Bayshore Medical Center 4000 Spencer Highway Pasadena, TX 77504	1174576698	01/30/2009	TX	N/A
RedBud Community Hospital 15630 18th Avenue Clearlake, CA 95422	51317	01/30/2009	CA	N/A
Taylor Regional Hospital 125 Greenbriar Drive Campbellsville, KY 42718	180087	01/30/2009	KY	N/A
St. Mary's Medical Center 901 St. Mary's Drive Evansville, IN 47750	150100	01/30/2009	IN	N/A
RUSH University Medical Center 1750 W Harrison Street	1932213600	01/30/2009	IL	N/A

Jones 106 Chicago, IL 60612				
Parkview Molecular Imaging 2428 Santa Monica Boulevard Suite #302 Santa Monica, CA 90404	G17328A	01/30/2009	CA	N/A
InSight Diagnostic Center 1121 8th Avenue Fort Worth, TX 76104	1932166105	01/30/2009	TX	N/A
Monongahela Valley Hospital 1163 Country Club Road Monongahela, PA 15063	390147	01/30/2009	PA	N/A
Florida Cancer Specialists/ Del Prado 811 Del Prado Boulevard Cape Coral, FL 33990	1760590962	01/30/2009	FL	N/A
MPHS 100 S. San Mateo Drive San Mateo, CA 94403	50007	01/30/2009	CA	N/A
Griffin Hospital 130 Division Street Derby, CT 6418	70031	01/30/2009	CT	N/A
West Jefferson Medical Center 1101 Medical Center Boulevard Marrero, LA 70072	190039	01/30/2009	LA	N/A
Mercy Hospital of Tiffin 485 West Market Street Tiffin, OH 44883	360089	01/30/2009	OH	N/A
Dr. Haroutioun S. Shahinian 10767 Gateway W El Paso, TX 79935	1639184005	01/30/2009	TX	N/A
Holston Valley Medical Center 130 W Ravine Road Kingsport, TN 37660	1457354318	01/30/2009	TN	N/A
Pinnacle Health Imaging at West Hanover 8012 Bretz Drive Harrisburg, PA 17112	390067	01/30/2009	PA	N/A

Indian Path Medical Center 2205 Pavilion Dr Kingsport, TN 37660	1457354318	01/30/2009	TN	N/A
Regional Medical Imaging 2486 Nerredia Flint, MI 48532	1457354318	01/30/2009	MI	N/A
Modesto Radiology Imaging 1524 Mchenry Avenue Suite 100 Modesto, CA 95350	ZZZ18519Z	01/30/2009	CA	N/A
Texas Cancer Clinic 9102 Floyd Curl Drive San Antonio, TX 78240	1316944655	01/30/2009	TX	N/A
Mercy Anderson Hospital 7500 State Road Cincinnati, OH 45255	1457354318	01/30/2009	OH	N/A
Henry Ford Macomb 15855 Nineteen Mile Rd Clinton Township, MI 48038	1457354318	01/30/2009	MI	N/A
Kennedy Outpatient Medical Imaging 900 Medical Center Drive Sewell, NJ 08080	310086	01/30/2009	NJ	N/A
Memorial Hermann Northeast 18955 Memorial North Humble, TX 77338	450684	01/30/2009	TX	N/A
Comprehensive Cancer Center;Cancer Specialists OK 3525 NW 56th Street C150 Oklahoma City, OK 73112	1013090075	01/30/2009	OK	N/A
RIS Lakeland 1305 Lakeland Hills Boulevard Lakeland, FL 33805	584	01/30/2009	FL	N/A
Bayshore Community Hospital 727 North Beers Street Holmdel, NJ 07733	310112	01/30/2009	NJ	N/A
Outpatient Radiology LLC 419 S. Washingont Street	1396704474	01/30/2009	WY	N/A

Suite 101 Casper, WY 82601				
University Hospital and Medical Center 7201 North University Drive Tamarac, FL 33321	1144274770	01/30/2009	FL	N/A
University Cancer Center, Huntsville 640 Interstate 45 N Huntsville, TX 77340	00Y285	01/30/2009	TX	N/A
San Jacinto Methodist Hospita 4401 Garth Road Baytown, TX 77521	450424	01/30/2009	TX	N/A
University Cancer Center, Brenha 605 Medical Court 101 Brenham, TX 77833	00Y285	01/30/2009	TX	N/A
Methodist Hospital I65 at 21st Street Indianapolis, IN 46206	150056	01/30/2009	IN	N/A
Mount Kisco Medical Group 34 S. Bedford Road Mount Kisco, NY 10549	MO0W067610	01/30/2009	NY	N/A
Danville Regional Medical Center 142 South Main Street Danville, VA 24541	490075	01/30/2009	VA	N/A
Hammond Clinic 9800 Valparaiso Drive Munster, IN 46321	1457354318	01/30/2009	IN	N/A
Alliance Imaging - Auburn Regional Medical Center 202 North Division Street Auburn, WA 98001	8865493	01/30/2009	WA	N/A
University of Connecticut Health Center 263 Farmington Avenue Farmington, CT 06030	300001399	01/30/2009	CT	N/A
Clinch Valley Medical Center 2949 West Front Street Richlands, VA 24641	1871534297	01/30/2009	VA	N/A

St. Mary Corwin Medial Center 1008 Minnequa Avenue Pueblo, CO 81004	840405257	01/30/2009	CO	N/A
Insight Imaging-Saint John's Regional Medical Center 1700 N Rose Avenue Suite 110 Oxnard, CA 93030	TP044	01/30/2009	CA	N/A
Trinity Hospitals 407 3rd Street SE Minot, ND 58701	412002771	01/30/2009	ND	N/A
Morris County Imaging 310 Madison Avenue Morristown, NJ 07960	111293	01/30/2009	NJ	N/A
Lake Norman Regional Medical Center 171 Fairview Road Mooresville, NC 28117	34012	01/30/2009	NC	N/A
Medical Imaging of Fredericksbur 1201 Sam Perry Boulevard Suite 102 Fredericksburg, VA 2240	7242956	01/30/2009	VA	N/A
Medical Outsourcing Services LL 450 Chew Street Allentown, PA 18102	115171	01/30/2009	PA	N/A
Southeastern Regional Medical Center 300 West 27th Street Lumberton, NC 28358	340050	01/30/2009	NC	N/A
Meridian Health, Riverview Medical Center 1 Riverview Plaza Red Bank, NJ 07701	310034	01/30/2009	NJ	N/A
Shands Jacksonville 555 W. 8th Street Jacksonville, FL 32209	100001	01/30/2009	FL	N/A
Advantage Imaging, LLC 3733 Park East Drive Suite 100	1336359686	01/30/2009	OH	N/A

Beachwood, OH 44139				
Marlette Regional Hospital 2770 Main Street PO Box 307 Marlette, MI 48453	231330	01/30/2009	MI	N/A
Lewisburg Cancer Center 75 Medical Park Drive Lewisburg, PA 17837	31076	01/30/2009	PA	N/A
New Jersey Diagnostics & Imagin 455 Jack Martin Boulevard Brick, NJ 08724	1710915483	01/30/2009	NJ	N/A
Medical Oncology Associates, P.S 6001 N Mayfair Street Spokane, WA 99208	GAB37015	01/30/2009	WA	N/A
DMS Imaging 10121 Pine Avenue Truckee, CA 96161	ZZZ05188Z	01/30/2009	CA	N/A
Northwest Medical Center 2801 N. State Road 7 Margate, FL 33063	100189	01/30/2009	FL	N/A
St. Joseph Hospital 1907 W. Sycamore Street Kokomo, IN 46904	1780625442	01/30/2009	IN	N/A
Mayo Clinic Jacksonville 4500 San Pablo Road Jacksonville, FL 32224	97325	01/30/2009	FL	N/A
Jewish Hospital 200 East Liberty Street Louisville, KY 40222	1457354318	01/30/2009	KY	N/A
Riverview Hospital Association 410 Dewey Street Wisconsin, Rapids WI 54495	520033	01/30/2009	WI	N/A
Quantum PET - Mt. Nittany Medical Center 1800 East Park Avenue State College, PA 16803	40635	01/30/2009	PA	N/A
Capital Medical Center 3900 Capital mall Drive	1841258639	01/30/2009	WA	N/A

Olympia, WA 98502				
Treasure Hills Imaging Center 2121 Pease Street Harlingen, TX 78550	FTA0091	01/30/2009	TX	N/A
King's Daughter's Hospital & Health Services One King's Daughters Drive Madison, IN 47250	1457354318	01/30/2009	IN	N/A
St. Luke's Hospital East Campus 85 Grand Avenue Fort Thomas, KY 41075	1457354318	01/30/2009	KY	N/A
Greenview Regional Hospital 1801 Ashley Circle Bowling Green, KY 42104	1457354318	01/30/2009	KY	N/A
TJ Samson Community Hospital 1301 N. Race Street Glasgow KY 42141	1457354318	01/30/2009	KY	N/A
Watson Clinic LLP 1600 Lakeland Hills Boulevard Lakeland FL 33805	162	01/30/2009	FL	N/A
Major Hospital 2455 Inteliplex Drive Shelbyville, IN 46176	1174555692	01/30/2009	IN	N/A
Carroll Precision Imaging Center 680A Poole Road Westminster, MD 21157	1598944761	01/30/2009	MD	N/A
Providence Hospital 16001 West Nine Mile Road PO Box 2043 Southfield, MI 48037	1144210253	01/30/2009	MI	N/A
Lexington Clinic 1221 South Broadway Lexington, KY 40504	169	01/30/2009	KY	N/A
St Francis Hospital 6161 S. Yale Avenue Tulsa, OK 74136	1457354318	01/30/2009	OK	N/A

Kingman Regional Imaging Center 1033 Sycamore Avenue Kingman, AZ 86409	30055	01/30/2009	AZ	N/A
Morrow County Hospital 651 West Marion Road Mount Gilead, OH 43338	361313	01/30/2009	OH	N/A
Alliance Imaging - Gritman Medical Center 700 South Main Street Moscow, ID 83843	17902911	01/30/2009	ID	N/A
Putnam Hospital Center 670 Stoneleigh Avenue Carmel, NY 10512	330273	01/30/2009	NY	N/A
Associated Medical Specialist, PA 817 Farrar Drive Conway, SC 29526	1063432391	01/30/2009	SC	N/A
South Valley Radiology 16633 Ventura Boulevard Suite 120 Encino, CA 91436	W18950	W18950	CA	N/A
Florida Cancer Institute 7651 Medical Drive Hudson, FL 34667	K4006	01/30/2009	FL	N/A
Albemarle Hospital 1144 N Road Street Elizabeth City, NC 27909	340109	01/30/2009	NC	N/A
Carilion New River Valley 2900 Lamb Circle Christiansburg, VA 24073	490042	01/30/2009	VA	N/A
Hope Diagnostic Imaging Center 2202 S. 77th Sunshine Strip Suite E Harlingen, TX 78550	FTNX12	01/30/2009	TX	N/A
Optima Diagnostic Imaging 8900 Wilshire Boulevard Beverly Hills, CA 90211	1659412757	01/30/2009	CA	N/A
John Randolph Medical Center	490020	01/30/2009	VA	N/A

411 W. Randolph Road Hopewell, VA 23860				
Salem Hospital 665 Winter Street SE Salem, OR 97301	1265431829	01/30/2009	OR	N/A
Nacogdoches Medical Center 4920 NE Stallings Drive Nacogdoches, TX 75961	450656	01/30/2009	TX	N/A
Fairfield Diagnostic Imaging 1241 River Valley Boulevard Lancaster, OH 43130	1063472884	01/30/2009	OH	N/A
PET Imaging of Thornton 9461 Huron Street Thornton, CO 80260	183123486	01/30/2009	CO	N/A
East Bay Medical Oncology 4721 Dallas Ranch Road Antioch, CA 94513	1932107331	01/30/2009	CA	N/A
MultiCare Health System/ Tacoma General Hospital 316 Martin Luther King Way Tacoma,WA 98405	1366556227	01/30/2009	WA	N/A
University of Wisconsin- Hospital and Clinics 600 Highland Avenue Madison, WI 53792	520098	01/30/2009	WI	N/A
Open MRI and CT of South Miami, LLC 101 NW 1st Avenue Delray Beach, FL 33444	1457405060	01/30/2009	FL	N/A
Dearborn County Hospital 600 Wilson Creek Road Lawrenceburg, IN 47025	150086	01/30/2009	IN	N/A
Alliance Imaging Inc-Desert Imaging 118 Castellano Drive ElPaso, TX 79912	1639357213	01/30/2009	TX	N/A
NSMS - Hamburg, IA 209 Limestone Pass Cottage Grove, WI 53527	1295785079	01/30/2009	WI	N/A

NSMS - Memphis, MO Sigler Avenue RR #1 Box 53 Memphis, MO 63555	1295785079	01/30/2009	MO	N/A
Alliance Imaging - Hematology Oncology 715 W. North Avenue Melrose, Park IL 60160	216057	01/30/2009	IL	N/A
South Miami Hospital 6200 SW 73rd Street Miami, FL 33143	1982688230	01/30/2009	FL	N/A
The PET/CT Center of North Florida 2161 Kingsley Avenue Orange Park, FL 32073	1952320467	01/30/2009	FL	N/A
Ascent Diagnostic Imaging of Tamarac 7180 North University Drive Tamarac, FL 33321	AL571	01/30/2009	FL	N/A
Wilson Medical Center 1705 Tarboro Street SW Wilson, KY 41075	340126	02/02/2009	NC	N/A
Lexington Medical Center 811 W. Main Street Lexington, KY 42141	1457354318	02/02/2009	SC	N/A
Merced MRI 3365 G Street Suite 100 Merced, KY 42104	ZZZ19963Z	02/02/2009	CA	N/A
Memorial Diagnostic Center 2901 Swann Avenue Tampa, FL 33805	100206	02/02/2009	FL	N/A
The PET/CT Center of North Florida 1375 Roberts Road Jacksonville Beach, FL 46176	1932196243	02/02/2009	FL	N/A
The PET/CT Center of North Florida 300 Health Park Boulevard #100	1861427155	02/02/2009	FL	N/A

St.Augustine, FL 32086				
Oncology Hematology West, P.C. 17201 Wright Street Suite 100 Omaha, NE 68130	1932178530	02/02/2009	NE	N/A
The PET/CT Center of North Florida 795 SW State Road 47 Lake City, FL 32025	1902893902	02/02/2009	FL	N/A
The PET/CT Center of North Florida 710 Lomax Street Jacksonville, FL 32204	1457529786	02/02/2009	FL	N/A
Provena Saint Joseph Medical Center 2000 Glenwood Avenue Joliet, IL 60435	140007	02/02/2009	IL	N/A
Montgomery County Advanced Medical Imaging, LLC 2701 Blair Mill Road Blairwood Building Suite 3 Willow Grove, PA 19090	1134315369	02/02/2009	PA	N/A
Medical Outsourcing Services LLC One Elizabeth Place Dayton, OH 45408	2391	02/02/2009	OH	N/A
Insight Diagnostic Imaging 750 N. Syringa Street Suite 104 Post Falls, ID 83854	1710089636	02/02/2009	ID	N/A
Hudson Valley Radiology Associates of Westchester 115 Main Street Tuckahoe, NY 10707	1174574115	02/02/2009	NY	N/A
Advocate Illinois Masonic Medical Center 3000 North Halsted	363196629	02/02/2009	IL	N/A

Suite 100 Chicago, IL 60657				
The PET/CT Center of North Florida 600 Zeagler Drive Palatka, FL 32177	1518986926	02/02/2009	FL	N/A
Baptist Memorial Outpatient Diagnostic Center 504 Azalea Drive Oxford, MS 38655	1053375576	02/02/2009	MS	N/A
Alliance Imaging - Great Falls Clinic 3000 15th Avenue South Great Falls, MT 59405	1790978146	02/02/2009	MT	N/A
Central DuPage Hospital 25 N Winfield Road Winfield, IL 60190	820800	02/02/2009	IL	N/A
Medical Outsourcing Services LLC 4932 W 95th Street Oak Lawn, IL 60453	211222	02/02/2009	IL	N/A
The Cancer Center at Lake Manassas 7901 Lake Manassas Drive Gainesville, VA 20155	1518024934	02/02/2009	VA	N/A
Zwanger-Pesiri Radiology, LLP 80 Maple Avenue Smithtown, NY 11787	W1391	02/02/2009	NY	N/A
Ohio Valey General Hospital 500 Pine Hollow Road McKees Rocks, PA 15136	390157	02/02/2009	OH	N/A
Rockwood Clinic Radiation Oncology 2410 E. Sinto Avenue Spokane Valley, WA 99216	356600	02/02/2009	WA	N/A
Regional West Medical Center 4021 Ave. B Scottsbluff, NE 69361	1639101199	02/02/2009	NE	N/A
DuPage Medical Group at	1801833983	02/02/2009	IL	N/A

Rickert 1100 W. 31st Street Downers Grove, IL 60515				
Medical Outsourcing Services LLC 2701 W. 68th Street Chicago, IL 60629	211222	02/02/2009	IL	N/A
Presbyterian Kaseman Hospital 8300 Constitution Avenue NE Albuquerque, NM 87110	320021	02/02/2009	NM	N/A
North Kansas City Hospital 2800 Clay Edwards Drive Parkville, MO 64116	260096	02/02/2009	MO	N/A
West Hernando Diagnostic Imaging 3315 Commercial Way Spring Hill, FL 34606	1174668305	02/02/2009	FL	N/A
NSMS - Robinson, IL 1000 N. Allen Street Robinson, IL 62454	1295785079	02/02/2009	IL	N/A
Memorial Hospital 715 South Taft Avenue Fremont OH 43420	360156	02/02/2009	OH	N/A
Samaritan Imaging Center 1245 Wilshire Boulevard Suite 205 Los Angeles, CA 90017	1538258116	02/02/2009	CA	N/A
Aurora West Alllis Medical Center 8901 West Lincoln Avenue West Allis, WI 53227	520139	02/02/2009	WI	N/A
Hematology & Oncology Specialists, LLC 39 Starbrush Circle Covington, LA 70433	5F818	02/02/2009	LA	N/A
DDIS-PB 3250 Westchester Avenue Bronx, NY 10461	w30661	02/02/2009	NY	N/A
Toledo Clinic, Inc.	1144217894	02/02/2009	OH	N/A

4235 Secor Road Toledo, OH 43623				
CDSA 1421 Third Avenue New York, NY 10028	1982700951	02/02/2009	NY	N/A
Cancer Care Centers of South Texas 2130 NE Loop 410 Suite 100 San Antonio, TX 78217	1225064603	02/02/2009	TX	N/A
Saddleback Memorial Medical Center 24451 Healthcenter Drive Laguna Hills, CA 92653	50603	02/02/2009	CA	N/A
Marshfield Clinic 2116 Craig Road Eau Claire, WI 54701	390452970	02/02/2009	WI	N/A
Liberty Pacific Advanced Imaging 16130 Ventura Boulevard Encino, CA 91436	1962457812	02/02/2009	CA	N/A
SimonMed Imaging, Inc. 20830 N Tatum Blvd Suite 190 Phoenix, AZ 85050	1164460077	02/02/2009	AZ	N/A
Marshfield Clinic - Rice Lake Center 1700 West Stout Street Rice Lake, WI 54868	5090	02/02/2009	WI	N/A
Ingham Regional Medical Center 401 W. Greenlawn Avenue Lansing, MI 48910	230167	02/02/2009	MI	N/A
Space Coast Medical Associates LLP 490 N. Washington Avenue Titusville, FL 32796	1558329581	02/02/2009	FL	N/A
Ascent Diagnostic Imaging of Jacksonville 5210 Belfort Road	AL744	02/02/2009	FL	N/A

Suite 130 Jacksonville, FL 32256				
Milford Regional Medical Center 12 Prospect Street Milford, MA 01757	1477527497	02/02/2009	MA	N/A
The Cancer Team Bellin Health 1580 Commanche Avenue Green Bay, WI 54313	ESO114	02/02/2009	WI	N/A
Community Cance Center of North Florida 7000 NW 11th Place Gainsville, FL 32605	1205858354	02/02/2009	FL	N/A
Epic Care Dublin 6380 Clark Avenue Dublin, CA 94568	ZZZ39149Z	02/02/2009	CA	N/A
Cornerstone McLaughlin & Marte 3850 Tampa Road Palm Harbor, FL 44718	1174668305	02/03/2009	FL	N/A
Methodist Dallas Medical Center 1441 N. Beckley Avenue Dallas, TX 75203	1457354318	02/03/2009	TX	N/A
Methodist Charlton Medical Center 3500 W. Wheatland Road Dallas, TX 75737	1457354318	02/03/2009	TX	N/A
Riverview Hospital 395 Westfield Road Nobelsville, IN 46060	1457354318	02/03/2009	IN	N/A
North Bay Imaging 625 W. Baldwin Road Panama City, FL 32405	1639208366	02/03/2009	FL	N/A
University Medical Center 602 Indiana Avenue Lubbock, TX 79413	1821087164	02/03/2009	TX	N/A
Toms River X-Ray/CT/MRI Center 154 Highway 37 W Toms River, NJ 08755	540379	02/03/2009	NJ	N/A

St. Mary's Hospital Imaging Department 25500 Point Lookout Road Leonardtown, MD 20650	210028	02/03/2009	MD	N/A
Banner Good Samaritan PET Center 1111 E. McDowell Road Phoenix AZ 85006	H0016	02/03/2009	AZ	N/A
Saint Luke's Northland Hospital 4320 Wornall Road Suite 328 Kansas City, MO 64111	111111	02/03/2009	MO	N/A
Carmichael Imaging 6620 Coyle Avenue Suite 110 Carmichael, CA 95608	941694584	02/03/2009	CA	N/A
Phoebe Putney Memorial Hospital 2709 Meredyth Drive Albany, GA 31707	1710147210	02/03/2009	GA	N/A
Trinity MedicalCenter 800 Montclair Road Birmingham, AL 35213	10104	02/03/2009	AL	N/A
Diagnostic Clinic 1551 West Bay Drive Largo, FL 33770	36	02/03/2009	FL	N/A
Titus Regional Medical Center 2001 North Jefferson Avenue Mount Pleasant, TX 75455	1174526529	02/03/2009	TX	N/A
Snow Canyon Clinic 272 East Center Street Ivins, UT 84738	1235185645	02/03/2009	UT	N/A
Conway Medical Center 300 Singleton Ridge Road, PO Box 829 Conway, SC 29526	1134172000	02/03/2009	SC	N/A
Nazha Cancer Center 801 New Road Northfield, NJ 08225	1063698959	02/03/2009	NJ	N/A

CHRISTUS Central Louisiana Imaging Center 3704 North Boulevard Alexandria, LA 71301	190019	02/03/2009	LA	N/A
Cobre Valley Community Hospital 5880 S. Hospital Drive Globe, AZ 85501	31314	02/03/2009	AZ	N/A
Wuesthoff X-Ray and Lab at Baytree 7970 N. Wickham Road Melbourne, FL 32940	1538298344	02/03/2009	FL	N/A
Avera Holy Family 826 North 8th Street Estherville, IA 51334	1508810177	02/03/2009	IA	N/A
Hannibal Regional Hospital 6000 Hospital Drive Hannibal, MO 63401	260025	02/03/2009	MO	N/A
Alliance Imaging Dreyer Clinic 1221 North Highland Avenue Aurora, IL 60506	1235282344	02/03/2009	IL	N/A
Cancer Care 11100 Hefner Pointe Drive Oklahoma City, OK 73120	1295785392	02/03/2009	OK	N/A
Fisher-Titus Medical Center 272 Benedict Avenue Norwalk, OH 44857	360065	02/03/2009	OH	N/A
Oaklawn Hospital 200 North Madison Street Marshall, MI 49068	230217	02/03/2009	MI	N/A
Dixie Regional Medical Center 544 South 400 East St. George, UT 84790	460021	02/03/2009	UT	N/A
New Jersey Institute of Radiology 630 Broad Street Carlstadt, NJ 07072	115568	02/03/2009	NJ	N/A
Medical Diagnostic Imaging	1730387911	02/03/2009	TX	N/A

4349 Treadaway Boulevard Abilene, TX 79602				
Richmond 2900 Richmond Avenue Houston, TX 77098	1730132234	02/03/2009	TX	N/A
Lafayette General Medical Center-LGI 1211 Coolidge Blvd Suite 201 Lafayette, LA 70503	1275536799	02/03/2009	LA	N/A
Ohio Cancer Specialists 1125 Aspira Court Mansfield, OH 44906	1316917040	02/03/2009	OH	N/A
Vantage Diagnostic Imaging 3400 W. Hefner Road Oklahoma City, OK 73120	400522173	02/03/2009	OK	N/A
Health Diagnostics 455 Hickey Boulevard #200 Daly City, CA 94015	1467611467	02/03/2009	CA	N/A
Physicians for Cure 795 SW State Road 47 Lake City, FL 32025	1770739104	02/03/2009	FL	N/A
Arkansas Cancer Center PET/CT 9601 Lile Drive Suite 106 Little Rock, AR 72205	1477535391	02/03/2009	AR	N/A
Southeast Georgia Health System 2415 Parkwood Drive Brusnwick, GA 31520	110025	02/03/2009	GA	N/A
Illinois Valley Community Hospital 925 West Street Peru, IL 61354	1457354318	02/03/2009	IL	N/A
Oncology Hematology Associates of Southwest IN 3699 Epworth Road Newburgh, IN 47630	1710150222	02/03/2009	IN	N/A
Sam Houston Cancer Center 112 Medical Park Lane	00Z337	02/03/2009	TX	N/A

Huntsville, TX 77340				
Silicon Valley Medical Imaging 2191 Mowry Avenue Suite 500-H Fremont, CA 94538	1376730358	02/03/2009	CA	N/A
RADS (Radiology and Diagnostic Services) 7160 W. 20th Avenue Suite M126 Hialeah, FL 33016	100187	02/03/2009	FL	N/A
Kaweah Delta Imaging Center 4949 W. Cypress Avenue Visalia, CA 93277	1588663769	02/03/2009	CA	N/A
University of South AL Mitchell Cancer Institute 1660 Springhill Avenue Mobile, AL 36604	H398	02/03/2009	AL	N/A
Murray-Calloway County Hospital 803 Poplar Street Murray, KY 42071	1073504981	02/03/2009	KY	N/A
Arizona Center for Hematology and Oncology 14674 W. Mountain View Boulevard #113 Surprise, AZ 85374	Z31627	02/03/2009	AZ	N/A
Wake Radiology Diagnostic Imaging, Inc. 300 Ashville Avenue Suite 180 Cary, NC 27518	1538123450	02/03/2009	NC	N/A
The Vancouver Clinic 700 NE 87th Avenue Vancouver, WA 98686	685900	02/03/2009	WA	N/A
Bronx-Lebanon Hospital Center 1650 Grand Concourse Bronx, NY 10457	1558461962	02/03/2009	NY	N/A
Evergreen Hemtology &	1255592218	02/03/2009	WA	N/A

Oncology, P.S. 309 E. Farwell Road Suite 100 Spokane, WA 99218				
NSMS - Parsons, KS 1902 59 Highway South Parsons, KS 67357	1295785079	02/03/2009	KS	N/A
Florida Cancer Specialists-Cornerstone 3850 Tampa Road Palm Harbor, FL 34684	1760590962	02/03/2009	FL	N/A
Town Center Imaging 21 Hospital Drive Suite 130 Palm Coast, FL 32164	1558530006	02/03/2009	FL	N/A
Memorial Hospital Of Carbondale 405 W. North Avenue Carbondale, IL 62901	1093801797	02/03/2009	IL	N/A
Herrin Hospital 201 South 14th Street Herrin, IL 62948	1093801797	02/03/2009	IL	N/A
Laughlin Memorial Hospital 1420 Tusculum Boulevard Greeneville, TN 37745	1881669778	02/03/2009	TN	N/A
Quantum PET - Hanover Hospital 300 Highland Avenue Hanover, PA 17331	40635	02/03/2009	PA	N/A
Parrish Medical Center 941 North Washington Avenue Titusville, FL 32796	1053424648	02/03/2009	FL	N/A
California Diagnostic Imaging Center, Inc. 828 South Grand Suite 107 Glendoro, CA 91740	TP113	02/03/2009	CA	N/A
NorCal Imaging - Pleasanton 5924 Stoneridge Drive	1578687166	02/03/2009	CA	N/A

Pleasanton, CA 94588				
Sadler Clinic 9305 Pinecroft Drive The Woodlands, TX 77380	1114979127	02/03/2009	TX	N/A
Medical Center Hospital 500 West 4th Street Odessa, TX 79760	450132	02/03/2009	TX	N/A
Cascade Medical Imaging 2500 NE Neff Road Bend, OR 97701	1194994145	02/03/2009	OR	N/A
Palos Community Hospital 15300 West Avenue Orland Park, IL 60462	1124276332	02/03/2009	IL	N/A
Lemmen Holton Cancer Pavilion 145 Michigan Street, NE Grand Rapids, MI 49503	230038	02/03/2009	MI	N/A
Houston Cancer Institute 1220 Blalock Suite 100 Houston, TX 77055	00N55X	02/03/2009	TX	N/A
Hudson Valley Hematology - Oncology Associates 19 Baker Avenue Suite 100 Poughkeepsie, NY 12601	1275615809	02/03/2009	NY	N/A
North Shore Radiology at Glen Cove, PC 10 Medical Plaza Suite 106 Glen Cove, NY 11542	1003024662	02/03/2009	NY	N/A
Cape Radiology 4011 Route 9 South PO Box 244 Rio Grande, NJ 08242	1972592194	02/03/2009	NJ	N/A
Frederick Imaging Centers, LLC 46 B Thomas Johnson Drive Suite 100 Frederick, MD 21702	1063699940	02/03/2009	MD	N/A
EP Medical Imaging Technology	1508987165	02/03/2009	TX	N/A

10767 Gateway West Suite 520 El Paso, TX 79935				
Atlantis Diagnostics 1344 S. Apollo Boulevard Melbourne, FL 32901	1053382457	02/03/2009	FL	N/A
Tri-City PETCT at Vista 902 Sycamore Avenue #120 Vista, CA 92081	1154580348	02/03/2009	CA	N/A
Florida Cancer Specialists/Sarasota Downtown 1970 Golf Street Sarasota, FL 34236	1760590962	02/03/2009	FL	N/A
Arizona Oncology Associates - Biltmore 2222 East Highland Avenue Suite 130 Phoenix, AZ 85016	1235193459	02/03/2009	AZ	N/A
Las Vegas Radiology 7500 Smoke Ranch Suite 100 Las Vegas, NV 89128	1972714970	02/03/2009	NV	N/A
Medical Outsourcing Services 2900 W. 16th Street Bedford, IN 47421	1700812294	02/03/2009	IN	N/A
Town Center Imaging 21 Hospital Drive Suite 130 Palm Coast, FL 32164	1558530006	02/03/2009	FL	N/A

Addendum XIII
Medicare-Approved Ventricular Assist Device (Destination Therapy) Facilities
[October Through December 2008]

On October 1, 2003, we issued our decision memorandum on ventricular assist devices for the clinical indication of destination therapy. We determined that ventricular assist devices used as destination therapy are reasonable and necessary only if performed in facilities that have been determined to have the experience and infrastructure to ensure optimal patient outcomes. We established facility standards and an application process. All facilities were required to meet our standards in order to receive coverage for ventricular assist devices implanted as destination therapy.

VAD Destination Therapy Facilities

The following facilities have met the CMS facility standards for destination therapy VADs.

Facility	Provider Number	Date Approved	State	Other Information
Advocate Christ Medical Center 4440 W 95th Street Oak Lawn, Illinois	140208	12/17/2003	IL	Joint Commission Certified on 05/26/2007
California Pacific Medical Center 2333 Buchanan Street San Francisco, California	050047	03/19/2004	CA	
Baptist Memorial Hospital 6019 Walnut Grove Road Memphis, Tennessee	440048	04/07/2004	TN	
Duke University Medical Center DUMC Box 3943 Durham, North Carolina	340030	10/31/2003	NC	
Fairview-University Medical Center 2450 Riverside Avenue Minneapolis, Minnesotta	240080	10/28/2003	MN	
Allegheny General Hospital 320 E North Avenue Pittsburgh, Pennsylvania	390050	12/10/2003	PA	Joint Commission Certified on 03/28/2008
Barnes-Jewish Hospital One Barnes-Jewish Hospital Plaza Saint Louis, Missouri	260032	10/27/2003	MO	Joint Commission Certified on 08/22/2008

Brigham and Women's Hospital 15 Francis Street Boston, Massachusetts	220110	01/09/2004	MA	
Bryan LGH Medical Center East 1600 S 48 Street Lincoln, Nebraska	280003	10/23/2003	NE	
Cedars-Sinai Medical Center 8700 Beverly Boulevard Los Angeles, California	050625	12/29/2003	CA	
Clarian Health Partners, Inc. 1701 N. Senate Avenue Indianapolis, Indiana	150056	11/25/2003	IN	
Cleveland Clinic 9500 Euclid Avenue Cleveland, Ohio	360180	12/03/2003	OH	
Hahnemann University Hospital Broad and Vine Streets Philadelphia, Pennsylvania	390290	12/22/2003	PA	Joint Commission Certified on 09/19/2008
Hospital of the University of Pennsylvania 3400 Spruce Street Philadelphia, Pennsylvania	390111	10/28/2003	PA	Joint Commission Certified on 05/23/2008
Henry Ford Hospital 2799 W. Grand Boulvard Detroit, Michigan	230053	01/06/2004	MI	
Inova Fairfax Hospital 3300 Gallows Road Falls Church, Virginia	490063	03/31/2004	VA	

Jewish Hospital 200 Abraham Flexner Way Louisville, Kentucky	180040	11/10/2003	KY	
Jackson Memorial Hospital 1611 NW 12th Avenue Miami, Florida	100022	01/12/2004	FL	University of Miami
LDS Hospital 8th Avenue and C Street Salt Lake City, Utah	460010	10/23/2003	UT	
Johns Hopkins Hospital 600 N. Wolfe Street Baltimore, Maryland	210009/1790700904	10/28/2003	MD	Joint Commission Certified on 07/09/2008
Loyola University Medical Center 2160 S. 1st Avenue Maywood, Illinois	140276	01/30/2004	IL	
Lutheran Hospital of Indiana 7950 W. Jefferson Boulevard Fort Wayne, Indiana	150017	10/29/2003	IN	
Massachusetts General Hospital 55 Fruit Street Boston, Massachusetts	220071	12/15/2003	MA	
Mayo Clinic 4500 San Pablo Road Jacksonville, Florida	100151	11/06/2003	FL	
Medical City Dallas Hospital 7777 Forest Lane Dallas, Texas	450647	12/03/2003	TX	

The Methodist Hospital 6565 Fannin Street Houston, Texas	450358	11/03/2003	TX	
Montefiore Medical Center 111 E. 210th Street Bronx, New York	330059	11/14/2003	NY	
Methodist Specialty and Transplant Hospital 8026 Floyd Curl Drive San Antonio, Texas	450388	11/19/2003	TX	
Newark Beth Israel Medical Center 201 Lyons Avenue Newark, New Jersey	310002	11/14/2003	NJ	
Mount Sinai Medical Center 1190 5th Avenue New York, New York	330024	11/25/2003	NY	
New York-Presbyterian Hospital 177 Fort Washington Avenue New York, New York	330101	10/28/2003	NY	Columbia University Medical Center
Ohio State University Medical Center 410 W. 10th Avenue Columbus, Ohio	360085	11/12/2003	OH	
Oregon Health and Sciences University 3181 SW Sam Jackson Park Road Portland, Oregon	380009	11/21/2003	OR	
OSF St Francis Medical Center 530 NE Glen Oak Avenue Peoria, Illinois	140067	11/12/2003	IL	

Penn State Milton S Hershey Medical Center 500 University Drive Hershey, Pennsylvania	390256	10/29/2003	PA	Joint Commission Certified on 05/19/2008
Rush-Presbyterian-St Luke Medical Center 1653 W Congress Parkway Chicago, Illinois	140119	11/14/2003	IL	
Sentara Norfolk General Hospital 600 Gresham Drive Norfolk, Virginia	490007	11/10/2003	VA	
Sacred Heart Medical Center 101 W 8th Avenue Spokane, Washington	500054	01/12/2004	WA	
Seton Medical Center 1201 W. 38th Street Austin, Texas	450056	01/13/2004	TX	
Shands at the University of Florida 1600 SW Archer Road Gainesville, Florida	100113	11/26/2003	FL	
Sharp Memorial Hospital 7901 Frost Street San Diego, California	050100	12/01/2003	CA	Joint Commission Certified on 07/18/2008
Stanford University Hospital and Clinics 300 Pasteur Drive Stanford, California	050441	12/22/2003	CA	Stanford University Medical Center
St Francis Hospital 6161 S. Yale Avenue Tulsa, Oklahoma	370091	01/09/2004	OK	

St Luke's Medical Center 2900 W Oklahoma Avenue Milwaukee, Wisconsin	520138	11/03/2003	WI	
St Luke's Episcopal Hospital 6720 Bertner Avenue Houston, Texas	450193	10/28/2003	TX	
St Vincent Hospital and Health Services 2001 W. 86th Street Indianapolis, Indiana	150084	01/05/2004	IN	
St Paul Medical Center 5909 Harry Hines Boulevard Dallas, Texas	450044	12/10/2003	TX	
Strong Memorial Hospital 601 Elmwood Avenue Rochester, New York	330285	10/29/2003	NY	Joint Commission Certified on 06/18/2008
Tampa General Hospital 2 Columbia Drive Tampa, Florida	100128	11/26/2003	FL	
Temple University Hospital 3401 N. Broad Street Philadelphia, Pennsylvania	390027	11/03/2003	PA	
Tufts-New England Medical Center 750 Washington Street Boston, Massachusetts	220116	11/06/2003	MA	
UCLA Medical Center 10833 Le Conte Avenue Los Angeles, California	050262	12/10/2003	CA	

University Medical Center 1501 N. Campbell Avenue Tucson, Arizonia	030064	10/29/2003	AZ	
University of Alabama at Birmingham Health System 500 22nd Street S Birmingham, Alabama	010033	10/29/2003	AL	
University of Colorado Hospital 4200 E. Ninth Avenue Denver, Colorado	060024	11/06/2003	CO	9th & Colorado Campus Joint Commission Certified on 07/23/2008
The University of Chicago Hospitals and Health System 5841 South Maryland Avenue Chicago, Illinois	140088	02/25/2004	IL	
University of Iowa Hospitals and Clinics 200 Hawkins Drive Iowa City, Iowa	160058	11/12/2003	IA	
University of Maryland Medical Center 22 S. Greene Street Baltimore, Maryland	210002	11/12/2003	MD	
University of Michigan Health System 1500 E. Medical Center Drive Ann Arbor, Michigan	230046	10/27/2003	MI	Joint Commission Certified on 03/28/2008
University of North Carolina Hospitals 101 Manning Drive Chapel Hill, North Carolina	340061	05/05/2004	NC	

University of Utah Hospital 50 N Medical Drive Salt Lake City, Utah	460009	12/22/2003	UT	
University of Virginia Health System 1215 Lee Street Charlottesville, Virginia	490009	01/12/2004	VA	
University of Washington Medical Center 1959 NE Pacific Street Seattle, Washington	500008	01/15/2004	WA	
University of Wisconsin Hospitals and Clinics 600 Highland Avenue Madison, Wisconsin	520098	12/03/2003	WI	
USC University Hospital 1500 San Pablo Los Angeles, California	050696	01/09/2004	CA	
UPMC Presbyterian 200 Lothrop Street Pittsburgh, Pennsylvania	390164	10/23/2003	PA	Joint Commission Certified on 06/11/2008
Virginia Commonwealth University Medical Center 401 North 12th Street Richmond, Virginia	490032	04/08/2004	VA	Medical College of Virginia Hospitals
Vanderbilt University Medical Center 1161 21st Avenue S Nashville, Tennessee	440039	10/28/2003	TN	
Ochsner Clinic Foundation 1514 Jefferson Highway New Orleans, Louisiana	190036	06/29/2004	LA	

Baylor University Medical Center 3500 Gaston Avenue Dallas, TX	N/A	10/04/2007	TX	Joint Commission Certified on 10/04/2007
The University of Michigan Hospitals and Health Centers 1500 East Medical Center Drive Ann Arbor, MI	230046	03/28/2008	MI	Joint Commission Certified on03/28/200/
Saint Mary's Hospital 1216 Southwest Second Street Rochester, MN	N/A	02/27/2008	MN	Joint Commission Certified on 02/27/2008
Allegheny General Hospital 320 East North Avenue Pittsburgh, PA	N/A	03/08/2008	PA	
Washington Hospital Center 110 Irving Street, NW Washington, DC	09-0011	04/23/2008	DC	Joint Commission Certified on 04/23/2008
Integris Baptist Medical Center 3300 Northwest Expressway Oklahoma City, OK	1831103654	08/13/2008	OK	Joint Commission Certified on 8/13/08

Addendum XIV
Lung Volume Reduction Surgery (LVRS)
[October Through December 2008]

Three types of facilities are eligible for reimbursement for Lung Volume Reduction Surgery (LVRS): National Emphysema Treatment Trial (NETT) approved (Beginning 05/07/2007, these will no longer automatically qualify and can qualify only with the other programs), Credentialed by the Joint Commission (formerly, the Joint Commision on Accreditation of Healthcare Organizations (JCAHO)) under their Disease Specific Certification Program for LVRS, and Medicare approved for lung transplants. Only the first two types are in the list.

Facility name	Date approved	State	Type of Certification
Baylor College of Medicine Houston, Texas	N/A	TEXAS	NETT
Brigham and Women's Hospital Boston, MA	N/A	MASSACHUSETTS	NETT
Cedars-Sinai Medical Center Los Angeles, CA	N/A	CALIFORNIA	NETT
Chapman Medical Center Orange, CA	N/A	CALIFORNIA	NETT
Cleveland Clinic Foundation Cleveland, OH	N/A	OHIO	NETT

Columbia University New York, NY	N/A	NEW YORK	NETT
Duke University Medical Center Durham, NC	N/A	NORTH CAROLINA	NETT
Johns Hopkins Hospital Baltimore, MD	N/A	MARYLAND	NETT
Kaiser Foundation Hospital - Riverside Riverside, CA	09/20/2006	CALIFORNIA	Joint Commssion
Long Island Jewish Medical Center New Hyde Park, NY	N/A	NEW YORK	NETT
Mayo Clinic Rochester, MN	N/A	MINNESOTA	NETT
Memorial Medical Center Springfield, IL	12/13/2006	ILLINOIS	Joint Commssion
National Jewish Medical Center Denver, CO	N/A	COLORADO	NETT
The Ohio State University Hospital Columbus, OH	N/A	OHIO	Joint Commssion
Ohio State University Medical Center Columbus, OH	N/A	OHIO	NETT
Saint Louis University Saint Louis, MO	N/A	MISSOURI	NETT
Temple University Hospital Philadelphia, PA	08/23/2008	PENNSYLVANIA	Joint Commission
UCLA Medical Center Los Angeles, CA	N/A	CALIFORNIA	NETT
University of California, San Diego San Diego, CA	N/A	CALIFORNIA	NETT

University of Maryland Medical Center Baltimore, MD	N/A	MARYLAND	NETT
University of Michigan Medical Center Ann Arbor, MI	N/A	MICHIGAN	Joint Commission
University of Pennsylvania Philadelphia, PA	N/A	PENNSYLVANIA	NETT
University of Pittsburgh Pittsburgh, PA	N/A	PENNSYLVANIA	NETT
University of Washington Seattle, WA	N/A	WASHINGTON	NETT
Washington University/Barnes Hospital Saint Louis, MO	N/A	MISSOURI	Joint Commission
Allegheny General Hospital Pittsburgh, PA	04/23/2008	PENNSYLVANIA	Joint Commission

Addendum XV—Medicare-Approved Bariatric Surgery Facilities

On February 21, 2006, we issued our decision memorandum on bariatric surgery procedures. We determined that bariatric surgical procedures are reasonable and necessary for Medicare beneficiaries who have a body-mass index (BMI) greater than or equal to 35, have at least one co-morbidity related to obesity, and have been previously unsuccessful with medical treatment for obesity.

This decision also stipulated that covered bariatric surgery procedures are reasonable and necessary only when performed at facilities that are: (1) certified by the American College of Surgeons (ACS) as a Level 1 Bariatric Surgery Center (program standards and requirements in effect on February 15, 2006); or (2) certified by the American Society for Bariatric Surgery (ASBS) as a Bariatric Surgery Center of Excellence (BSCOE) (program standards and requirements in effect on February 15, 2006).

The following facilities have met our minimum facility standards for bariatric surgery and have been certified by American College of Surgeons (ACS) or American Society for Metabolic and Bariatric Surgery (ASMBS).

Facility Name	Provider Number	Date Approved	State	Other Information
Evanston Northwestern Hospital 2650 Ridge Avenue Suite 1308 Evanston, IL 60201	140010	01/26/2006	IL	ACS
Chapman Medical Center 2601 East Chapman Avenue Orange, CA 92646	05-0745	02/21/2006	CA	ASMBS
St Vincent Carmel Hospital 13430 Old Meridian Street Suite 168 Carmel, IN 46032	15-0157	02/21/2006	IN	ASMBS
Abbott Northwestern Hospital 800 E. 28th Street Minneapolis, MN 55407	N/A	02/24/2006	MN	ASMBS
Alexian Brothers Medical Center 800 Biesterfield Road Elk Grove Village, IL 60007	N/A	02/24/2006	IL	ASMBS
American Bariatric Institute at Doctors' Hospital 1130 Louisiana Avenue Shreveport, LA 71101	N/A	02/24/2006	LA	ASMBS
Arnot Ogden Medical Center 600 Fitch Street Elmira, NY 14905	330090	02/24/2006	NY	ASMBS

AtlantiCare Regional Medical Center 2500 English Creek Avenue Egg Harbor Township, NJ 08234	N/A	02/24/2006	NJ	Center for Surgical Weight Loss and Wellness Salartash Surgical Associates ASMBS
Atlanta Medical Center 303 Parkway Drive NE Atlanta, GA 30312	N/A	02/24/2006	GA	ASMBS
Aurora Sinai Medical Center 945 N. 12th Street Milwaukee, WI 53211	N/A	02/24/2006	WI	ASMBS
Baptist Memorial Hospital North Mississippi 2301 South Lamar Boulevard Oxford, MS 38655	N/A	02/24/2006	MS	ASMBS
Bellin Health 215 N. Webster Avenue Green Bay, WI 54301	N/A	02/24/2006	WI	ASMBS
Bon Secours Community Hospital 160 E. Main Street Port Jervis, NY 12771	N/A	02/24/2006	NY	ASMBS
California Pacific Medical Center 2333 Buchanan Street San Francisco, CA 94115	N/A	02/24/2006	CA	ASMBS
Cape Fear Valley Health System 1638 Owen Drive Fayetteville, NC 28304	N/A	02/24/2006	NC	ASMBS
Centennial Center for the Treatment of Obesity 2300 Patterson Street Nashville, TN 37203	N/A	02/24/2006	TN	ASMBS

Cleveland Clinic Hospital-Weston 3100 Weston Road Weston, FL 33331	N/A	02/24/2006	FL	ASMBS
Christus Schumpert Health System 1 Saint Mary Place Shreveport, LA 71101	N/A	02/24/2006	LA	ASMBS
Citizen's Bariatric Center 2701 Hospital Avenue Victoria, TX 77901	N/A	02/24/2006	TX	ASMBS
Columbia-St. Mary's Bariatric Center 2025 E. Newport Avenue Milwaukee, WI 53211	N/A	02/24/2006	WI	ASMBS
Community Hospital Monterey Peninsula 23625 Holman Highway Monterey, CA 93940	N/A	02/24/2006	CA	ASMBS
Crestwood Medical Center One Hospital Drive Huntsville, AL 35801	N/A	02/24/2006	AL	ASMBS
Cypress Fairbanks Medical Center Hospital 10655 Steepletop Drive Houston, TX 77065	450716	02/24/2006	TX	ASMBS
Danbury Hospital 24 Hospital Avenue Danbury, CT 06810	N/A	02/24/2006	CT	ACS
East Texas Medical Center 1000 S. Beckman Avenue Tyler, TX 75701	N/A	02/24/2006	TX	ASMBS

Eastern Maine Medical Center 905 Union Street EMH Mall Suite 11 Bangor, ME 04401	200033	02/24/2006	ME	ASMBS
Elmbrook Memorial Hospital 19333 W. North Avenue Brookfield, WI 53045	N/A	02/24/2006	WI	ASMBS
Emory Dunwoody Medical Center 4575 N. Shallowford Road Atlanta, GA 30338	N/A	02/24/2006	GA	ASMBS
Florida Hospital Celebration Health 400 Celebration Place Kissimmee, FL 34747	N/A	02/24/2006	FL	ASMBS
Florida Medical Center 4850 W. Oakland Boulevard Lauderdale Lakes, FL 33313	N/A	02/24/2006	FL	ASMBS
Froedtert Memorial Lutheran Hospital 9200 W. Wisconsin Avenue Milwaukee, WI 53226	N/A	02/24/2006	WI	Medical College of Wisconsin ASMBS
Frye Regional Medical Center 420 N. Center Street Hickory, NC 28601	N/A	02/24/2006	NC	ASMBS
Geisinger Medical Center 100 North Academy Avenue Danville, PA 17822	390006	N/A	PA	ASMBS- 02/24/2006 ACS-01/26/2007
Good Samaritan Hospital 375 Dixmyth Avenue Cincinnati, OH 45220	N/A	02/24/2006	OH	ASMBS

Grandview Medical Center 405 Grand Avenue Dayton, OH 45405	N/A	02/24/2006	OH	ASMBS
Greater Baltimore Medical Center 6701 N. Charles Street Baltimore, MD 21204	N/A	02/24/2006	MD	ASMBS
Hamilton Medical Center 1200 Memorial Drive Dalton, GA 30720	N/A	02/24/2006	GA	ASMBS
Hennepin County Medical Center 701 Park Avenue Minneapolis, MN 55415	N/A	02/24/2006	MN	ASMBS
Holy Cross Hospital 4725 N. Federal Highway Fort Lauderdale, FL 33308	N/A	02/24/2006	FL	ASMBS
Hospital of Saint Raphael 1450 Chapel Street New Haven, CT 06511	N/A	02/24/2006	CT	ASMBS
Huntington Memorial Hospital 100 W. California Boulevard Pasadena, CA 91105	N/A	02/24/2006	CA	ASMBS
Jupiter Medical Center 1210 S. Old Dixie Highway Jupiter, FL 33458	N/A	02/24/2006	FL	ASMBS
King's Daughters Medical Center 617 23rd Street Ashland, KY 41101	N/A	02/24/2006	KY	ASMBS

Legacy Good Samaritan Hospital and Medical Center 1015 NW 22nd Avenue Portland, OR 97210	N/A	02/24/2006	OR	ASMBS
Lexington Medical Center 2720 Sunset Boulevard West Columbia, SC 29169	N/A	02/24/2006	SC	ASMBS
Little Company of Mary 2800 W. 95th Street Evergreen Park, IL 60805	N/A	02/24/2006	IL	ASMBS
Lutheran Medical Center 150 55th Street Brooklyn, NY 11220	29D361	02/24/2006	NY	ACS
Medical University of South Carolina 171 Ashley Avenue Charleston, SC 29425	N/A	02/24/2006	SC	ASMBS
Memorial Hermann Hospital 6411 Fannin Street Houston, TX 77030	N/A	02/24/2006	TX	ASMBS
Memorial Hospital 2525 DeSales Avenue Chattanooga, TN 37404	N/A	02/24/2006	TN	ASMBS
Mercy Hospital Miami 3663 South Miami Avenue Miami, FL 33133	N/A	02/24/2006	FL	ASMBS
Mercy San Juan Medical Center 6501 Coyle Avenue Carmichael, CA 95608	N/A	02/24/2006	CA	ASMBS

Metabolic Surgery Center at Baptist Hospital 2011 Church Street Nashville, TN 37203	N/A	02/24/2006	TN	ASMBS
Methodist Dallas Medical Center PO Box 655999 Dallas, TX 75265-5999	N/A	02/24/2006	TX	Texas Bariatric Center ASMBS
Methodist Healthcare System 8109 Fredricksburg Road San Antonio, TX 78229	N/A	02/24/2006	TX	ASMBS
Methodist Hospital 6500 Excelsior Boulevard Saint Louis Park, MN 55426	N/A	02/24/2006	MN	ASMBS
Middlesex Hospital 28 Crescent Street Middletown, CT 06457	N/A	02/24/2006	CT	ASMBS
Methodist Hospital of Southern California 300 West Huntington Drive Arcadia, CA 91007	N/A	02/24/2006	CA	ASMBS
Mills-Peninsula Health Services 1783 El Camino Real Burlingame, CA 94010	N/A	02/24/2006	CA	ASMBS
New Hanover Regional Medical Center 2131 S. 17th Street Wilmington, NC 28401	N/A	02/24/2006	NC	ASMBS

New York Methodist Hospital 506 Sixth Street Brooklyn, NY 11215	N/A	02/24/2006	NY	ASMBS
North Hills Hospital 4401 Booth Calloway Road North Richland Hills, TX 76180	N/A	02/24/2006	TX	ASMBS
North Colorado Medical Center 1801 16th Street Greeley, CO 80631	N/A	02/24/2006	CO	ASMBS
North Vista Hospital 1409 E. Lake Mead Boulevard North Las Vegas, NV 89101	N/A	02/24/2006	NV	ASMBS
Northeast Georgia Health System, Inc. 743 Spring Street NE Gainesville, GA 30501	N/A	02/24/2006	GA	ASMBS
NorthEast Medical Center 920 Church Street N. #302E Concord, NC 28025	N/A	02/24/2006	NC	ASMBS
Northwestern Memorial Hospital 215 E. Huron Street, NE Chicago, IL 60611	N/A	02/24/2006	IL	Northwestern Medical Faculty Foundation ASMBS
Ocala Regional Medical Center 1431 SW 1st Street Ocala, FL 34474	N/A	02/24/2006	FL	ASMBS
Palms of Pasadena Hospital 1501 Pasedena Avenue St. Petersburg, FL 33707	N/A	02/24/2006	FL	ASMBS
Orange Coast Memorial Medical Center 9920 Talbert Avenue Fountain Valley, CA 92708	N/A	02/24/2006	CA	ASMBS
Parkwest Medical Center 9352 Park West Boulevard Knoxville, TN 37923	N/A	02/24/2006	TN	ASMBS

Penrose-St. Francis Health Services 825 E. Pikes Peak Avenue Colorado Springs, CO 80917	N/A	02/24/2006	CO	ASMBS
Poudre Valley Hospital 1024 S. Lemay Avenue Fort Collins, CO 80524	N/A	02/24/2006	CO	ASMBS
Presbyterian-St. Luke's Medical Center 1719 E. 19th Avenue Denver, CO 80218	N/A	02/24/2006	CO	ASMBS
Princeton HealthCare System 253 Witherspoon Street Princeton, NJ 08540	N/A	02/24/2006	NJ	ASMBS
Roger Williams Medical Center 825 Chalkstone Avenue Providence, RI 02908	N/A	02/24/2006	RI	Drs. Lentrichia & Pohl, Inc. ASMBS
Rose Medical Center 4545 E. 9th Avenue, #470 Denver, CO 80220	N/A	02/24/2006	CO	ASMBS
Saint Barnabas Medical Center 94 Old Short Hills Road Livingston, NJ 07039	N/A	02/24/2006	NJ	ASMBS
Saint Francis Hospital 5959 Park Avenue Memphis, TN 38119	N/A	02/24/2006	TN	ASMBS
St. Francis Hospital - Franciscan Health System 34515 Ninth Avenue S. Federal Way, WA 98003	N/A	02/24/2006	WA	N/A
Saint Joseph East Center for Weight Loss 160 N. Eagle Creek Drive Lexington, KY 40509	N/A	02/24/2006	KY	ASMBS

Saint Mary's Regional Medical Center 234 W. 6th Street Reno, NV 89503	N/A	02/24/2006	NV	ASMBS
Saint Mary's Hospital 5801 Bremo Road Richmond, VA 23226	N/A	02/24/2006	VA	ASMBS
Scottsdale Healthcare Shea Campus 900 E. Shea Boulevard Scottsdale, AR 85260	N/A	02/24/2006	AZ	ASMBS
Scripps Memorial 9888 Genesee Avenue La Jolla, CA 90237	N/A	02/24/2006	CA	ASMBS
Scripps Mercy Hospital 4077 Fifth Avenue San Diego, CA 92103	N/A	02/24/2006	CA	ASMBS
Sentara Careplex Hospital 3000 Coliseum Drive Hampton, VA 23666	N/A	02/24/2006	VA	ASMBS
Sinai Hospital of Baltimore 2401 W. Belvedere Avenue Baltimore, MD 21215	N/A	02/24/2006	MD	Sinai Surgical Associates ASMBS
Sisters of Charity Hospital 2130 Main Street Buffalo, NY 14214	N/A	02/24/2006	NY	ASMBS
Sioux Valley Hospital USD Medical Center 1305 W. 18th Street Sioux Falls, SD 57105	N/A	02/24/2006	SD	ASMBS
Sound Shore Medical Center of Westchester 16 Guion Place New Rochelle, NY 10801	N/A	02/24/2006	NY	ASMBS

South Nassau Communities Hospital 1 Healthy Way Oceanside, NY 11572	N/A	02/24/2006	NY	ASMBS
Southwest Healthcare System 36485 Inland Valley Drive Wildomar, CA 92595	N/A	02/24/2006	CA	ASMBS
Southwest Medical Center 2810 Ambassador Caffery Parkway Lafayette, LA 70506	N/A	02/24/2006	LA	ASMBS
Spectrum Health Blodgett Campus 1840 Wealthy Street, SE Grand Rapids, MI 49506	N/A	02/24/2006	MI	MMPC Center for Health Excellence ASMBS
SSM DePaul Health Center 12303 DePaul Avenue Bridgeton, MO 63044	N/A	02/24/2006	MO	ASMBS
St. Joseph's Area Health Services 600 Pleasant Avenue Park Rapids, MN 56470	N/A	02/24/2006	MN	ASMBS
St. Vincent Charity Hospital 2322 E. 22nd Street #220 Cleveland, OH 44115	N/A	02/24/2006	OH	ASMBS
Staten Island University Hospital 475 Seaview Avenue Staten Island, NY 10305	N/A	02/24/2006	NY	ASMBS
Theda Clark Medical Center 200 Theda Clark Medical Plaza Suite 410 Neenah, WI 54956	000071445	02/24/2006	WI	ACS

The Ohio State University Hospital 410 W. 10th Avenue Columbus, OH 43210	N/A	02/24/2006	OH	ASMBS
The Regional Medical Center at Memphis 877 Jefferson Avenue Memphis, TN 38103	N/A	02/24/2006	TN	ASMBS
Tri-City Regional Medical Center 21530 Pioneer Boulevard Hawaiian Gardens, CA 90716	N/A	02/24/2006	CA	ASMBS
United Hospital 333 North Smith Avenue Saint Paul, MN 55102	N/A	02/24/2006	MN	ASMBS
United Regional Health Care System 1600 19th Street Wichita Falls, TX 76301	N/A	02/24/2006	TX	ASMBS
Unity Hospital 550 Osborne Road, NE Fridley, MN 55432	N/A	02/24/2006	MN	ASMBS
University of Chicago Hospitals 5841 S. Maryland Avenue Chicago, IL 60637	N/A	02/24/2006	IL	University of Chicago Department of Surgery ASMBS
University of Minnesota Medical Center, Fairview 2450 Riverside Avenue Minneapolis, MN 55454	24-0080	02/24/2006	MN	ASMBS
UPMC St. Margaret 815 Freeport Road Pittsburgh, PA 15215	N/A	02/24/2006	PA	ASMBS
UPMC Horizon 110 North Main Street Greenville, PA 16125	N/A	02/24/2006	PA	ASMBS

Virginia Commonwealth University Medical Center Richmond, VA 23284	N/A	02/24/2006	VA	ASMBS
Vanderbilt University Medical Center 1211 22nd Avenue S. Nashville, TN 37232	N/A	02/24/2006	TN	ASMBS
Weight Loss Surgery Program at Baylor 9101 N. Central Expressway Suite 370 Dallas, TX 75231	N/A	02/24/2006	TX	ASMBS
Wellstar Health Systems 677 Church Street, NE Marietta, GA 30060	N/A	02/24/2006	GA	ASMBS
White Plains Hospital Center 190 E. Post Road White Plains, NY 10601	N/A	02/24/2006	NY	ASMBS
York Hospital 1001 S. George Street York, PA 17403	N/A	02/24/2006	PA	ASMBS
Norman Regional Hospital 901 North Porter, Box 1308 Norman, OK 73070	370008	03/22/2006	OK	ASMBS
St. Luke's Medical Center 1800 E. Van Buren Suite 307B Phoenix, AZ 85006	030037	03/22/2006	AZ	Abdominal Surgeons, Ltd. ASMBS
Silver Cross Hospital 1200 Maple Road Joliet, IL 60432	140213	03/22/2006	IL	Midwest Comprehensive Bariatrics ASMBS
Tampa General Hospital 2 Columbia Drive, F145 Tampa, FL 33601	100128	03/22/2006	FL	University of South Florida ASMBS

Spartanburg Regional Healthcare System 101 East Wood Street Spartanburg, SC 29303	420007	03/27/2006	SC	ASMBS
OSF Saint Francis Medical Center 530 NE Glen Oak Avenue Peoria, IL 61637	140067	04/05/2006	IL	ASMBS
Palmetto Health Baptist 1850 Laurel Street, Suite 1A Columbia, SC 29201	420086	04/05/2006	SC	ASMBS
Peconic Bay Medical Center 1300 Roanoke Avenue Riverhead, NY 11901	330107	04/06/2006	NY	ASMBS
Desert Springs Hospital 2075 East Flamingo Las Vegas, NV 89119	290022	04/07/2006	NV	ASMBS
Palmetto General Hospital 2001 West 68th Street Hialeah, FL 33016	100187	04/11/2006	FL	ASMBS
Hurley Medical Center One Hurley Plaza Flint, MI 48503-5993	230132	04/14/2006	MI	ACS
University of California, Davis 2315 Stockton Boulevard Sacramento, CA 95817	N/A	04/18/2006	CA	ASMBS
Russell County Medical Carroll and Tate Streets Lebanon, VA 24266	N/A	04/27/2006	VA	ASMBS
Western Pennsylvania Hospital 4800 Friendship Avenue Pittsburgh, PA 15224	028672	N/A	PA	ASMBS- 05/01/2006 ACS-10/16/2006
Banner Good Samaritan Bariatric Center 1300 North 12th Street Suite 610 Phoenix, AZ 85006	N/A	05/04/2006	AZ	ASMBS

Bothwell Regional Health Center 601 East 14th Street Sedalia, MO 65301	N/A	05/17/2006	MO	ASMBS
Durham Regional Hospital 3643 N. Roxboro Road Durham, NC 27704	N/A	05/17/2006	NC	ASMBS
Fairview Southdale Hospital 6405 France Avenue Street Suite W320 Edina, MN 55435	N/A	05/17/2006	MN	ASMBS
Cleveland Clinic 9500 Euclid Avenue (A80) Cleveland, OH 44195	360180	N/A	OH	05/24/2006-ASMBS 12/01/2006-ACS
St. Agnes Healthcare 900 Caton Avenue Baltimore, MD 21229	210011	05/24/2006	MD	ASMBS
Sycamore Hospital 2150 Leiter Road Miamisburg, OH 45342	360239	05/24/2006	OH	ASMBS
Albany Medical Center 47 New Scotland Avenue Albany, NY 12208	330013	06/02/2006	NY	ACS
Georgetown Community Hospital 1140 Lexington Road Georgetown, KY 40324	180101	06/07/2006	KY	ASMBS
Fletcher Allen Health Care 111 Colchester Avenue Burlington, VT 05401	N/A	06/09/2006	VT	Hospital: 470003 Group Provider: VN0997 ACS
New York-Presbyterian Hospital/Columbia University Medical Center 622 W. 168th Street New York, NY 10032	330101	06/14/2006	NY	ACS

Providence Memorial Hospital 2001 North Oregon Street El Paso, TX 79902	450668	06/15/2006	TX	ASMBS
UT Southwestern University Hospitals-Zale Lipshy 5909 Harry Hines Boulevard Dallas, TX 75390	450766	06/19/2006	TX	ASMBS
Cedars-Sinai Medical Center 8700 Beverly Boulevard Los Angeles, CA 90048	N/A	06/20/2006	CA	Thalians-2W ACS
Community Medical Center-Clovis 2755 Herndon Avenue Clovis, CA 93611	050492	N/A	CA	ACS-06/26/2006 ASMBS-12/07/2006
Oregon Health & Science University 3181 SW Sam Jackson Park Road L223A Portland, OR 97239	See other information	06/27/2006	OR	OHSU Medical Group-107708 OHSU Hospital-380009 ACS
Hospital of the University of Pennsylvania 3400 Spruce Street, 4 Silverstein Philadelphia, PA 19104	N/A	07/06/2006	PA	ASMBS
Swedish Medical Center 501 East Hampden Avenue Englewood, CO 80113	060034	07/06/2006	CO	ASMBS
Blount Memorial Hospital 907 East Lamar Alexander Parkway Maryville, TN 37801	440011	07/11/2006	TN	ASMBS
University of Virginia Health System PO Box 800809 Charlottesville, VA 22908-0809	490009	07/12/2006	VA	ACS

Sewickley Valley Hospital 720 Blackburn Road Sewickley, PA 15143	390037	07/13/2006	PA	ASMBS
The Christ Hospital 2139 Auburn Avenue Cincinnati, OH 45219	360163	07/17/2006	OH	ASMBS
Cabell Huntington Hospital 1340 Hal Greer Boulevard Huntington, WV 25701	510055	07/19/2006	WV	ASMBS
Mount Sinai Hospital One Gustave L. Levy Place 1190 5th Avenue New York, NY 10029	330024	07/25/2006	NY	ASMBS
UMass Memorial Medical Center-Memorial Campus 119 Belmont Street Worcester, MA, 01605	A22819	07/27/2006	MA	ACS
Henry Ford Hospital 2799 West Grand Boulevard Detroit, MI 48202	N/A	07/31/2006	MI	ASMMBS
Vista Surgical Hospital 9094 Perkins Road Suite B Baton Rouge, LA 70810	230053	07/31/2006	LA	ASMBS
Town & Country Hospital 6001 Webb Road Tampa, FL 33615	100255	08/02/2006	FL	ASMBS
New York-Presbyterian Hospital/Weill Cornell Medical Center 630 West 168th Street New York, NY 10032	330101	08/04/2006	NY	ACS

Centinela Freeman Regional Medical Center 4650 Lincoln Boulevard Marin del Rey, CA 90292	050741	08/07/2006	CA	ASMBS
NYU Medical Center 560 First Avenue New York, NY 10016	330214	08/08/2006	NY	ASMBS
Regional West Medical Center 4021 Avenue B Scottsbluff, NE 69361	280061	08/08/2006	NE	ASMBS
Mercy Medical Center 1000 North Village Avenue Rockville Centre, NY 11570	N/A	08/10/2006	NY	ASMBS
Brigham and Women's Hospital 75 Francis Street Boston, MA 02115-6195	M20830	08/14/2006	MA	ACS
St. Catherine of Sienna Medical Center 48 Route 25A Smithtown, NY 11787	316495	08/28/2006	NY	ASMBS
Highland Hospital 1000 South Avenue Rochester, NY 14620	330164	08/30/2006	NY	ACS
Inova Fair Oaks Hospital 3600 Joseph Siewick Drive Fairfax, VA 22033	490101	08/31/2006	VA	ASMBS
Our Lady of Lourdes Medical Center 1600 Haddon Avenue Camden, NJ 08104	613039	08/31/2006	NJ	ASMBS

FirstHealth Moore Regional Hospital 155 Memorial Drive Pinehurst, NC 27374	340115	09/01/2006	NC	ASMBS
Hamot Medical Center 201 State Street Erie, PA 16550	390063	09/01/2006	PA	ASMBS
St. Alexius Hospital - NewStart 3933 South Broadway Street St. Louis, MO 63118	260210	09/01/2006	MO	ASMBS
St. Catherine of Siena Medical Center 50 Route 25A Smithtown, NY 11787	316495	09/01/2006	NY	ASMBS
Barnes Jewish Hospital One Barnes-Jewish Hospital Plaza St. Louis, MO 63110	260032	09/06/2006	MO	ASMBS
Baptist Memorial Hospital Memphis 6025 Walnut Grove Road Memphis, TN 38120	440048	09/07/2006	TN	ASMBS
Norwalk Hospital 24 Stevens Street Norwalk, CT 06856	070034	09/07/2006	CT	ASMBS
North Shore University Hospital at Manhasset 300 Community Drive Manhasset, NY 11530	330106	09/08/2006	NY	ASMBS
St. Vincent's Medical Center 2800 Main Street Bridgeport, CT 06606	070028	09/08/2006	CT	Level 3-Department of Surgery ASMBS
Faxton-St. Luke's Healthcare 1656 Champlin Avenue Utica, NY 13503	330044	09/14/2006	NY	ASMBS
St. Joseph's Hospital	N/A	09/14/2006	MN	ASMBS

69 West Exchange St. Paul, MN 55102				
Johns Hopkins Bayview Medical Center 4940 Eastern Avenue Baltimore, MD 21224	210029	09/15/2006	MD	ASMBS
University Hospitals of Cleveland 11100 Euclid Avenue Cleveland, OH 44106	N/A	09/15/2006	OH	ASMBS
Yale-New Haven Hospital 20 York Street New Haven, CT 06510	070022	09/20/2006	CT	ASMBS
Avera McKennan Hospital 800 East 21st Street, Box 5045 Sioux Falls, SD 57117-5045	430016	09/25/2006	SD	ASMBS
Memorial Hospital Jacksonville 3625 University Boulevard South Jacksonville, FL 32216	100179	09/26/2006	FL	ASMBS
Fountain Valley Regional Hospital 17100 Euclid Street Fountain Valley, CA 92708	050570	09/27/2006	CA	ASMBS
Sentara Norfolk General Hospital 600 Gresham Drive Norfolk, VA 23507	4900073	09/29/2006	VA	ACS
St. Mary's Medical Center 450 Stanyan Street San Francisco, CA 94117	050457	10/02/2006	CA	ASMBS
Trinity Medical Center 800 Montclair Road Birmingham, AL 35213	010104	10/03/2006	AL	ASMBS
MeritCare Health System 720 4th Street North Fargo, ND 58122	350011	10/11/2006	ND	ASMBS

St. Lukes's/Roosevelt 1090 Amsterdam Avenue New York, NY 10025	330046	10/11/2006	NY	10th Floor ACS
Benefis Healthcare 1101 26th Street South Great Falls, MT 59405	270012	10/13/2006	MT	ASMBS
Mason General Hospital 901 Mountain View Drive Shelton, WA 98584	501336	10/13/2006	WA	ASMBS
Norton Hospital 200 East Chestnut Louisville, KY 40202	180088	10/16/2006	KY	ASMBS
Port Huron Hospital 1221 Pine Grove Avenue Port Huron, MI 48060	230216	10/16/2006	MI	ASMBS
Harper University Hospital 3990 John R. Street Detroit, MI 48201	230104	10/17/2006	MI	ASMBS
St. Luke Hospital 7380 Turfway Road Florence, KY 41042	180045	10/18/2006	KY	ASMBS
Twelve Oaks Medical Center Hospital 4200 Twelve Oaks Drive Houston, TX 77027	N/A	10/18/2006	TX	ASMBS
Cleveland Clinic Florida 3100 Weston Road Weston, FL 33331-3602	100289	10/19/2006	FL	ACS
Grinnell Regional Medical Center 210 Fourth Avenue Grinnell, IA 50112	N/A	10/19/2006	IA	Provider Numbers: Hospital: 160147, Surgical Group: 03108 ACS
Conway Medical Services 300 Singleton Ridge Road Conway, SC 29528	420049	10/11/2006	SC	ASMBS
Alta Bates Medical Center	050043	10/23/2006	CA	ASMBS

350 Hawthorne Avenue Oakland, CA 94609				
Massachusetts General Hospital 55 Fruit Street Boston, MA 02114-2696	220071	10/23/2006	MA	ACS
Mayo Clinic-Saint Mary's Hospital 200 First Street SW Rochester, MN 55905	N/A	10/23/2006	MN	SMH: 24-0010 Part B General Medical: C01384 ACS
Saint Francis Hospital 6465 South Yale Avenue, #900 Tulsa, OK 74136	372308	10/23/2006	OK	ACS
Newton-Wellesley Hospital 2014 Washington Street Newton, MA 02462	220101	10/26/2006	MA	ACS
Mobile Infirmary Medical Center 5 Mobile Infirmary Circle Mobile, AL 36007	010113	10/27/2006	AL	ASMBS
Maine Medical Center 22 Bramhall Street Portland, ME 04102	200009	11/06/2006	ME	ASMBS
Magee Womens Hospital of UPMC 3000 Halket Street Pittsburgh, PA 15213	390114	11/13/2006	PA	ASMBS
Saint Francis Hospital and Medical Center 114 Woodland Street Hartford, CT 06105	070002	11/15/2006	CT	ASMBS
South Jersey Healthcare-Regional Medical Center 1505 West Sherman Avenue Vineland, NJ 08360	310032	11/20/2006	NJ	ASMBS
Overlook Hospital 99 Beauvoir Avenue Summit, NJ 07902	310051	11/21/2006	NJ	Nursing Administration Office

				ASMBS
Cedars Medical Center 1400 Northwest 12th Avenue Miami, FL 33136	100009	11/23/2006	FL	ASMBS
Memorial Hermann Memorial City Hospital 921 Gessner Road Houston, TX 77024	450610	11/27/2006	TX	ASMBS
Tufts-New England Medical Center 750 Washington Street Boston, MA 02111	220116	11/27/2006	MA	ASMBS
Allegheny General Hospital 320 East North Avenue Pittsburgh, PA 15212	390050	11/30/2006	PA	Fifth Floor, South Tower ASMBS
Northwest Medical Center 2801 North State Road 7 Margate, FL 33063	100189	11/30/2006	FL	ASMBS
Potomac Hospital 2300 Opitz Boulevard Woodbridge, VA 22191	490113	11/30/2006	VA	ASMBS
Baptist Health Medical Center - Little Rock 9601 I-630, Exit 7 Little Rock, AR 72205	040114	12/01/2006	AR	ASMBS
University of Washington Medical Center 1959 NE Pacific Street PO Box 356151 Seattle, WA 98195-6151	1326002049	12/05/2006	WA	ACS

St. Luke's Regional Medical Center 333 North 1st Street Suite 120 Boise, ID 83702	130006	12/06/2006	ID	ASMBS
University of Alabama at Birmingham Hospital 1530 3rd Avenue South Kracke Building 404 Birmingham, AL 35294-0016	010033	12/07/2006	AL	ACS
Hackensack University Medical Center 30 Prospect Avenue Hackensack, NJ 07601	310001	12/08/2006	NJ	ACS
Hialeah Hospital 651 East 25th Street Hialeah, FL 33013	100053	12/13/2006	FL	ASMBS
Sts. Mary and Elizabeth Hospital 1850 Bluegrass Avenue Louisville, KY 40215	180040	12/15/2006	KY	Bariatric Office ASMBS
Bon Secours Surgical Weight Loss-Maryview Medical Center 3636 High Street Portsmouth, VA 23707	490017	12/18/2006	VA	ASMBS
Pomerado Hospital 15615 Pomerado Road Poway, CA 92064	050636	12/18/2006	CA	ASMBS
Boston Medical Center 88 E. Newton Street D507-Department of Surgery Boston, MA 02118	220031	12/19/2006	MA	ACS

Medcenter One, Inc. 300 North 7th Street Bismarck, ND 58501	350015	12/19/2006	ND	ASMBS
Meriter Hospital 202 South Park Street Madison, WI 53715	520089	12/19/2006	WI	ASMBS
University of Wisconsin Hospital & Clinics 600 Highland Avenue Madison, WI 53792	520098	12/19/2006	WI	ASMBS
Women and Children's Hospital 4200 Nelson Road Lake Charles, LA 70605	190201	12/19/2006	LA	ASMBS
Mount Carmel West Hospital 793 West State Street Columbus, OH 43222	360035	12/20/2006	OH	ASMBS
Southcoast Hospitals Group-Tobey Hospital 43 High Street Wareham, MA 02571	220074	12/21/2006	MA	ASMBS
Carilion Roanoke Memorial Hospital 1906 Belleview Avenue Roanoke, VA 24014	N/A	12/26/2006	VA	ASMBS
Mercy General Health Partners 1500 Sherman Boulevard Muskegon, MI 49444	230004	12/26/2006	MI	ASMBS
Mountainside Hospital 1 Bay Avenue Montclair, NJ 07042	310054	12/26/2006	NJ	ASMBS
Park Plaza Hospital 1313 Hermann Drive Houston, TX 77004	450659	01/09/2007	TX	ASMBS

Renaissance Hospital Houston 2807 Little York Houston, TX 77093	450795	01/12/2007	TX	ASMBS
Penn State Milton S. Hershey Medical Center 500 University Drive Hershey, PA 17033	390256	01/18/2007	PA	ASMBS
Shawnee Mission Medical Center 9100 West 74th Street Shawnee Mission, KS 66204	170104	01/24/2007	KS	ASMBS
Morristown Memorial Hospital 100 Madison Avenue Morristown, NJ 07962	31-0015	01/25/2007	NJ	ACS
Alvarado Hospital 6655 Alvarado Road San Diego, CA 92120	050583	01/26/2007	CA	Alvarado Surgical Weight-Loss Program ASMBS
St. Francis Hospital 7th and Clayton Streets Wilmington, DE 19805	080003	01/29/2007	DE	ASMBS
Sacred Heart Medical Center 101 West 8th Avenue Spokane, WA 99220	500054	02/05/2007	WA	ASMBS
Ochsner Clinic Foundation 1514 Jefferson Highway New Orleans, LA 70121	190036	02/06/2007	LA	ASMBS
Northwest Specialty Hospital 1593 East Polston Avenue Post Falls, ID 83854	130066	02/07/2007	ID	ASMBS
Sacred Heart Hospital 421 Chew Street Allentown, PA 18102	390197	02/07/2007	PA	ASMBS
Rio Grande Regional Hospital 101 East Ridge Road McAllen, TX 78503	450711	02/12/2007	TX	ASMBS

Gundersen Lutheran Medical Center 1900 South Avenue La Crosse, WI 54601	520087	02/13/2007	WI	ASMBS
Kettering Medical Center 3535 Southern Boulevard Kettering, OH 45429	360079	02/16/2007	OH	ASMBS
Beth Israel Deaconess Medical Center 330 Brookline Avenue Boston, MA 02215	N/A	02/17/2006	MA	ACS
Shady Grove Adventist Hospital 9901 Medical Center Drive Rockville, MD 20850	210057	02/19/2007	MD	ASMBS
Pitt County Memorial Hospital 2100 Stantonsburg Road Greenville, NC 27835	340040	02/20/2007	NC	ASMBS
St. Cloud Hospital 1406 Sixth Avenue, North St. Cloud, MN 56303	240036	02/23/2007	MN	ASMBS
Virginia Mason Medical Center 1100 Ninth Avenue Seattle, WA 98101	500005	03/01/2007	WA	ASMBS
Southeast Georgia Health System 2415 Parkwood Drive Brunswick, GA 31520	110025	03/06/2007	GA	ASMBS
Baystate Medical Center 759 Chestnut Street Springfield, MA 01199	220077	03/13/2007	MA	ACS
PinnacleHealth Community Campus 4300 Londonderry Road c/o PO Box 8700 Harrisburg, PA 17109	390067	03/29/2007	PA	ASMBS

The Valley Hospital 223 North Van Dien Avenue Ridgewood, NJ 07450	310012	03/30/2007	NJ	ASMBS
Charleston Area Medical Center 800 Pennsylvania Avenue Charleston, WV 25302	510022	04/16/2007	WV	ASMBS
Presbyterian Hospital of Dallas 8200 Walnut Hill Lane Dallas, TX 75231	450462	04/16/2007	TX	ASMBS
Dekalb Medical Center 2701 North Decatur Road Decatur, GA 30033	110076	04/26/2007	GA	ASMBS
St. Francis Health Center 1700 SW 7th Street Topeka, KS 66606	170016	04/26/2007	KS	ASMBS
St. Mark's Hospital 1200 East 3900 South Salt Lake City, UT 84124	47007	04/26/2007	UT	ASMBS
Faulkner Hospital 1153 Centre Street Boston, MA 02130	220119	04/27/2007	MA	ACS
George Washington University Hospital 9000 23rd Street NW Washington, DC 20037	090001	08/14/2006	DC	ASMBS

William Beaumont Hospital – Royal Oak 3601 West Thirteen Mile Road Royal Oak, MI 48073-6769	230130	04/20/2007	MI	ACS
University Medical Center at Princeton 253 Witherspoon Street Princeton, NJ 08542	N/A	02/24/2006	NJ	ASMBS
Del Sol Medical Center 10201 Gateway West Suite 130 El Paso, TX 79925	45-0646	05/03/2007	TX	ACS
Winchester Hospital 41 Highland Avenue Winchester, MA 01890	220105	05/31/2007	MA	ASMBS
Lawrence Memorial Hospital – Hallmark Health System 170 Governors Avenue Medford, MA 02155	220070	05/31/2007	MA	ASMBS
The Methodist Hospital 6565 Fannin, NB1-001 Houston, TX 77030	450358	03/22/2007	TX	ACS
ValleyCare Health System 1111 East Stanley Boulevard Livermore, CA 94550	050283	06/07/2007	CA	ASMBS
The Presbyterian Hospital 200 Hawthorne Lane Charlotte, NC 28204	340053	06/06/2007	NC	ASMBS
Nix Hospital 414 Navarro Street San Antonio, TX 78205	450130	06/08/2007	TX	ASMBS

Huntsville Hospital 101 Sivley Road Huntsville, AL 35801	010039	05/11/2007	AL	ASMBS
The Jewish Hospital 4777 Galbraith Road Cincinnati, OH 45236	360016	06/07/2007	OH	ASMBS
UCI Medical Center 101 The City Drive South Orange, CA 92868	050348	05/25/2007	CA	ACS
Kaiser Permanente Medical Center Richmond 901 Nevin Avenue Richmond, CA 94801	050075	05/24/2007	CA	ACS
Green Hospital 12395 El Camino Real San Diego, CA 92130	050424	06/21/2007	CA	ASMBS
Sutter Roseville Medical Center One Medical Plaza Roseville, CA 95661	050309	06/22/2007	CA	ASMBS
Munroe Regional Medical Center 1500 Southwest 1st Avenue Ocala, FL 34471	100062	06/05/2007	FL	ASMBS
Enloe Medical Center 251 Cohasset Road Chico, CA 95926	050039	06/11/2007	CA	ASMBS
St. Francis Hospital & Health Centers 1600 Albany Street Beech Grove, IN 46107	150033	06/15/2007	IN	ASMBS
Southern Surgical Hospital 1700 West Lindberg Drive Slidell, LA 70458	190270	06/21/2007	LA	ASMBS

Creighton University Medical Center 601 North 30th Street Omaha, NE 68131	280030	06/20/2007	NE	ASMBS
Peninsula Regional Medical Center 100 East Carroll Street Salisbury, MD 21801	210019	06/20/2007	MD	ASMBS
Wadley Regional Medical Center 1000 Pine Street Texarkana, TX 75501	450200	06/08/2007	TX	ASMBS
Vista Medical Center Hospital 4301 Vista Road Pasadena, TX 77504	450831	06/22/2007	TX	ASMBS
St. David's Medical Center 919 East 32nd Street Austin, TX 78705	450531	06/22/2007	TX	ASMBS
Sanford USD Medical Center 1305 West 18th Street Sioux Falls, SD 57117	430027	01/17/2006	SD	ASMBS
Weight Loss Surgery Program at Baylor 3600 Gaston Avenue Suite 360 Wadley Tower Dallas, TX 75246	N/A	06/20/2007	TX	ASMBS
Shelby Baptist Medical Center 1000 First Street N. Alabaster, AL 35007	010016	05/18/2007	AL	ACS
Lehigh Valley Hospital and Health Network Cedar Crest & I-78 PO Box 689 Allentown, PA 18105-1556	390133	05/29/2007	PA	ACS
West Hills Hospital 7300 Medical Center Drive West Hills, CA 91307	050481	06/27/2007	CA	ASMBS

Adirondack Medical Center 2233 State Route 86 Saranack Lake, NY 12983	330079	06/26/2007	NY	ASMBS
Middletown Regional Hospital 105 McKnight Drive Middletown, OH 45044	360076	06/25/2007	OH	ASMBS
Kaleida Health, Buffalo General 100 High Street Buffalo, NY 14203	300005	06/25/2007	NY	ASMBS
Miami Valley Hospital One Wyoming Street Dayton, OH 45409	N/A	06/25/2007	OH	ASMBS
Minimally Invasive Surgery Hospital 11217 Lakeview Avenue Lenexa, KS 66219	N/A	06/25/2007	KS	ASMBS
Saint Agnes Medical Center 1303 E. Herndon Avenue Fresno, CA 93720	05-0093	07/24/2007	CA	ASMBS
Sartori Memorial Hospital 515 College Street Cedar Falls, IA 50613	160040	07/17/2007	IA	ASMBS
Maimonides Medical Center 948 48th Street, 2nd floor Brooklyn, NY 11219	33-0194	07/10/2007	NY	ASMBS
Westchester Medical Center 95 Grasslands Road Valhalla, NY 10595	330234	07/17/2007	NY	ASMBS
Deaconess Hospital 311 Straight Street Cincinnati, OH 45219	36-0038	07/17/2007	OH	ASMBS

Northern Ohio Bariatric Center at Parma Hospital 6305 Powers Boulevard Parma, OH 44129	360041	07/10/2007	OH	ASMBS
Einstein at Elkins Park 60 E. Township Line Road Elkins Park, PA 19027	390142	07/10/2007	PA	ASMBS
Lahey Clinic Medical Center 41 Mall Road Burlington, MA 01805	220171	06/22/2007	MA	ACS
St. Francis Hospital 34515 Ninth Ave South Federal Way, WA 98003	500141	07/26/2007	WA	ACS
California Foundation for Health 1401 Garces Highway Delano, CA 93215	050608	07/10/2007	CA	d.b.a. Delano Regional Medical Center; ASMBS
Northeast Alabama Regional Medical Center 400 East 10th Street Anniston, AL 36207	010078	07/30/2007	AL	ASMBS
Trinity Medical Center 4343 N. Josey Lane Carrollton, TX 75010	45-0730	07/30/2007	TX	ASMBS
Gratiot Medical Center 300 E. Warwick Drive Alma, MI 48801	23-0030	07/30/2007	MI	ASMBS
Cuyuna Regional Medical Center 320 East Main Street Crosby, MN 56441	241353	08/20/2007	MN	ASMBS
Valley Medical Center 400 South 43rd Street Renton, WA 98055	500088	07/30/2007	WA	ASMBS

Renaissance Hospital Dallas 427 W. 20th Street Suite 300 Houston, TX 77008	670002	08/08/2007	TX	ASMBS
UPMC Presbyterian Shadyside 5230 Centre Avenue Pittsburgh, PA 15232	39-0114	08/20/2007	PA	ASMBS
Clarian North Medical Center 6625 Network Way Suite 100 Indianapolis, IN 46202	15-0161	08/20/2007	IN	ASMBS
Genesis Medical Center 1227 East Rusholme Street Davenport, IA 52803	160033	08/08/2007	IA	ASMBS
University General Hospital 7501 Fannin Street Houston, TX 77054	670019	08/08/2007	TX	ASMBS
Ellis Hospital 1101 Nott Street Schenectaday, NY 12308	330153	06/19/2007	NY	ASMBS
University of Texas Medical Branch 301 University Boulevard Galveston, TX 77555-1168	450018	08/16/2007	TX	ACS
UPMC Presbyterian Shadyside 5230 Centre Avenue Pittsburgh, PA 15232	39-0114	08/20/2007	PA	ABMS
Christiana Care Health Services 4755 Ogletown – Stanton Road Newark, DE 19718	080001	08/29/2007	DE	ASMBS
Stanford Hospital and Clinics 300 Pasteur Drive Stanford, CA 94305	050441	09/13/2007	CA	ACS

Summa Health Systems Hospital 95 Arch Street Suite 240 Akron, OH 44304	360020	09/21/2007	OH	ASMBS
Memorial Regional Hospital 3500 Johnson Street Hollywood, FL 33021	100038	09/11/2007	FL	ASMBS
Temple University Hospital 3401 North Broad Street Philadelphia, PA 19140	390027	09/21/2007	PA	ASMBS
Good Samaritan Hospital 2425 Samaritan Drive San Jose, CA 95124	50380	09/21/2007	CA	ASMBS
Johnson City Medical Center 400 North State of Franklin Road Johnson City, TN 37604	HSP440063	09/27/2007	TN	ASMBS
Providence Saint Joseph Medical Center 201 South Buena Vista Street Suite 425 Burbank, CA 91505	50235	N/A	CA	ASMBS – 09/17/2007; ACS – 09/05/2007
Baptist Bariatric Center of Excellence 1000 West Moreno Street Pensacola, FL 32501	10-0093	09/27/2007	FL	ASMBS
Hillcrest Hospital 2104 Woodruff Road Greenville, SC 29607	43-0037	10/10/2007	SC	ASMBS
Fairway Medical 67252 Industry Lane Covington, LA 70433	190267	10/10/2007	LA	ASMBS
John T. Mather Memorial Hospital 75 North Country Road Port Jefferson, NY 11777	JTM 33-0185	10/10/2007	NY	ASMBS

Lenox Hill Hospital 110 East 59th Street, Suite 8A New York, NY 10022	10003F8	10/10/2007	NY	ASMBS
Easton Hospital 250 South 21st Street Easton, PA 18042	390162	10/10/2007	PA	ASMBS
Medical City Dallas Hospital 7777 Forest Lane, Suite 240A Dallas, TX 75230	000340	10/10/2007	TX	ASMBS
St Vincent's East 50 Medical Park East Drive Birmingham, AL 35235	010011	10/10/2007	AL	ASMBS
Northside Hospital 1000 Johnson Ferry Road Atlanta, GA 30342	11-0161	10/10/2007	GA	ASMBS
Missouri Bariatric Services 1000 W. Nifong Boulevard, Building 2, Suite 210 Columbia, MO 65203	000011108	10/10/2007	MO	ASMBS
Presbyterian Hospital of Plano 6200 West Parker Road Plano, TX 75093	45-0771	10/10/2007	TX	ASMBS
Norton Suburban Hospital 315 East Broadway Louisville, KY 40202	180088	10/10/2007	KY	ASMBS
Sky Ridge Medical Center 10101 RidgeGate Parkway Lone Tree, CO 80124	060112	10/30/2007	CO	ASMBS
St. Mary Medical Center 1050 Linden Avenue Long Beach, CA 90813	050191	10/30/2007	CA	ASMBS

Scott and White Hospital 2401 S. 31st Street Temple, TX 76508	450054	10/24/2007	TX	ACS
The Methodist Hospitals, Inc. 303 East 89th Avenue Merrillville, IN 46410	150132	10/30/2007	IN	ASMBS
Parkview Community Hospital 3865 Jackson Street Riverside, CA 92503	050102	10/30/2007	CA	ASMBS
Evergreen Hospital 12040 NE 128th Street Kirkland, WA 98034	500124	10/30/2007	WA	ASMBS
University of Maryland Medical Center 22 South Greene Street Baltimore, MD 21201-1595	21002	11/05/2007	MD	ACS
Montefiore Medical Center 111 East 210th Street Bronx, NY 10467	330059	11/07/2007	NY	Group #: 330059, Dr. Karen Gibbs #: 140341, Dr. Pratibha Vemulapalli #: 3097H1; ACS
Emory Crawford Long Hospital 1364 Clifton Road, NE Atlanta, GA 30322	110078	11/13/2007	GA	ACS
El Camino Hospital 2500 Grant Road Mountain View, CA 94039	050308	11/19/2007	CA	ASMBS
Northeast Baptist Hospital 8811 Village Drive San Antonio, TX 78217	450058	11/19/2007	TX	ASMBS

University of Iowa Hospitals and Clinics 4624 JCP Bariatric Surgery Iowa City, IA 52242	160058	11/19/2007	IA	ASMBS
El Camino Hospital 2500 Grant Road Mountain View, CA 94039	050308	11/19/2007	CA	ASMBS
Aspirus Wausau Hospital 333 Pineridge Boulevard Wausau, WI 54401	52-0030	11/28/2007	WI	ASMBS
Eastern Idaho Regional Medical Center 2860 Channing Way Suite 102 Idaho Falls, ID 83404	13-0018	12/10/2007	ID	ASMBS
Mount Sinai Medical Center 4701 North Meridian Avenue Miami Beach, FL 33140	10-0034	12/11/2007	FL	ASMBS
North Florida Regional Medical Center 6400 Newberry Road Suite 106 Gainesville, FL 32605	21536	12/27/2007	FL	ASMBS
Baylor Regional Medical Center at Plano 470 Alliance Boulevard Plano, TX 75093	45-0890	01/04/2008	TX	ASMBS
Memorial Medical Center 1800 Coffee Road Suite 30 Modesto, CA 95350	050557	01/04/2008	CA	ASMBS
Pennsylvania Hospital 800 Spruce Street 2 Cathcart Philadelphia, PA 19107	39-0226	01/08/2008	PA	ASMBS

Houston Northwest Medical Center 710 FM 1960 Road West Houston, TX 77090	450638	01/08/2008	TX	ASMBS
St. Bernadine Medical Center 2101 North Waterman Avenue San Bernadino, CA 92404	05-0129	01/04/2008	CA	ASMBS
UCLA Medical Center 10833 Le Conte Avenue CHS 72-236 Los Angeles, CA 90095	050262	01/08/2008	CA	ASMBS
Lourdes Medical Center Burlington County 218-A Sunset Road Willingboro, NJ 08046	310061	01/30/2008	NJ	ASMBS
Sacred Heart Medical Center 1200 Hilyard Street Suite S-570 Eugene, OR 97401	380033	01/23/2008	OR	ASMBS
Salt Lake Regional Medical Center 1050 East South Temple Salt Lake City, UT 84102	460003	02/11/2008	UT	ASMBS
Kaiser Permanente-South San Francisco 1200 El Camino Real South San Francisco, CA 94080	050070	01/30/2008	CA	ASMBS
Chilton Memorial Hospital 97 West Parkway Pompton Plains, NJ 07444	310017	02/12/2008	NJ	ASMBS
Mary Imogene Bassett Hospital One Atwell Road Cooperstown, NY 13326	330136	02/12/2008	NY	ASMBS
Sharp Memorial Hospital 7901 Frost Street – 5 South /ACC San Diego, CA 92123	0150100	02/11/2008	CA	ASMBS

Doctors Hospital at White Rock Lake 9440 Poppy Drive Dallas, TX 75218	450678	01/30/2008	TX	ASMBS
Rhode Island Hospital 2 Dudley Street Suite 470 Providence, RI 02905	410007	02/25/2008	RI	ASMBS
Munson Medical Center 1105 Sixth Street Traverse City, MI 49684	23-0097	02/19/2008	MI	ASMBS
DayOne Health at 900 N. Michigan Surgical Center 409 West Huron Suite 300 Chicago, IL 60613	538810	02/19/2008	IL	ASMBS
USC University Hospital 1500 San Pablo Los Angeles, CA 90033	05-0696	01/30/2008	CA	ASMBS
Lexington Medical Center 2720 Sunset Boulevard West Columbia, SC 29169-4810	See other information	01/14/2008	SC	ACS; NPI: Hospital Services 1356366314; Professional Services 1144248097
Saint Clare's Hospital 400 West Blackwell Street Dover, NJ 07801	310050	03/17/2008	NJ	ASMBS
Hartford Hospital 85 Seymour Street, Suite 415 Hartford, CT 06106	07-0025	03/25/2008	CT	ASMBS
Singing River Hospital 2809 Denny Avenue Pascagoula, MS 39581	250040	03/17/2008	MS	ASMBS

St. John's Regional Health Center 1235 East Cherokee Street Springfield, MO 65804	260065	03/17/2008	MO	ASMBS
Willis Knighton Health System 2551 Greenwood Road Suite 340 Shreveport, LA 71103	190111	03/17/2008	LA	ASMBS
Cottage Health System PO Box 689 Pueblo at Bath Street Santa Barbara, CA 93102-0689	030596	02/25/2008	CA	ASMBS
Syosset Hospital 221 Jericho Turnpike Syosset, NY 11791	330106	02/19/2008	NY	ASMBS
The Hospital of Central Connecticut 1000 Grand Street New Britain, CT 06050	070035	03/11/2008	CT	ASMBS
Stringfellow Memorial Hospital 105 Windsor Lane Rainbow City, AL 35906	01-0038	03/11/2008	AL	ASMBS
Providence Alaska Medical Center 3200 Providence Drive Anchorage, AK 99519-6604	02-0001	03/17/2008	AK	ASMBS
The Reading Hospital and Medical Center 2603 Keiser Boulevard Wyomissing, PA 19610	390044	03/25/2008	PA	ASMBS
Good Samaritan Hospital 255 Lafayette Avenue Suffern, NY 10901	330158	03/25/2008	NY	ASMBS
San Joaquin Community Hospital 2819 H Street Bakersfield, CA 93301	04055	04/01/2008	CA	ASMBS

Lowell General Hospital 295 Varnum Avenue Lowell, MA 01854		02/22/2008	MA	Medicare: 220063; Medicaid Inpatientt #: 100228; Medicaid Outpatient #: 1201069; ACS
Memorial Health University Medical Center 4700 Waters Avenue Savannah, GA 31404	11-0036	04/08/2008	GA	ASMBS
Christiana Care Health Services 3506 Kennett Pike Wilmington, DE 19807	080001	04/18/2008	DE	ACS
Abington Memorial Hospital 1235 Old York Road, Suite G-28 Abington, PA 19001	390231	04/21/2008	PA	ASMBS
Gateway Medical Center 1771 Madison Street Clarksville, TN 37043	440035	04/21/2008	TN	ASMBS
Westchester Medical Center 95 Grasslands Road Valhalla, NY 10595	W94181	04/07/2008	NY	ACS
High Point Regional Health System 601 N. Elm Street High Point, NC 27261	34-0004	05/02/2008	NC	ACS
Desert Regional Medical Center 1150 North Indian Canyon Drive Palm Springs, CA 92262	05-0243	05/12/2008	CA	ASMBS
Southwest General Hospital 7400 Barlite Boulevard San Antonio, TX 78224	450697-A	05/22/2008	TX	ASMBS
Muhlenberg Regional Medical Center Park Avenue and Randolph	310063	06/02/2008	NJ	ASMBS

Road Plainfield, NJ 07061				
St. Mary's Medical Center 407 East 3rd Street Duluth, MN 55805	240002	06/09/2008	MN	ASMBS
St. Charles Medical Center - Bend 2500 NE Neff Road Bend, OR 97701	380047	06/30/2008	OR	ASMBS
Bay Area Hospital 1775 Thompson Road Coos Bay, OR 97420	380090	06/30/2008	OR	ASMBS
Saint Elizabeth Regional Medical Center 555 South 70th Street Lincoln, NE 68510	280020	07/21/2008	NE	ASMBS 6th Floor Surgical Unit
Holston Valley Medical Center 130 Ravine Street Kingsport, TN 37660	44-0017	07/29/2008	TN	ASMBS
Holy Cross Hospital 1500 Forest Glen Road Silver Spring, MD 20910	210004	07/29/2008	MD	ACS
North Carolina Baptist Hospital Medical Center Boulevard Winston Salem, NC 27157	340047	07/29/2008	NC	ASMBS
Flagler Hospital 400 Health Park Boulevard St. Augustine, FL 32086	100090	07/31/2008	FL	ASMBS
Torrance Memorial Medical Center 3330 Lomita Boulevard Torrance, CA 90505	05-0351	08/02/2008	CA	ASMBS
St. John Macomb-Oakland Hospital 27483 Dequindre Road Madison Heights, MI 48701	230195	08/07/2008	MI	ASMBS Suite 204
Nebraska Methodist Hospital	280040	08/07/2008	NE	ASMBS

10060 Regency Circle Omaha, NE 68114				
Marquette General Hospital 580 West College Avenue Marquette, MI 49855	23-0054	08/07/2008	MI	ASMBS
Sacred Heart Hospital 5149 North 9th Avenue Suite G-32 Pensacola, FL 32504	100025	08/19/2008	FL	ASMBS
Central Mississippi Medical Center 1850 Chadwick Drive Jackson, MS 39204	250072	08/26/2008	MS	ASMBS
Vista Hospital of Dallas 2696 West Walnut Street Garland, TX 75042	450315	08/26/2008	TX	ASMBS
St. Alexius Medical Center 1555 Barrington Road Hoffman Estates, IL 60169	14-0290	08/26/2008	IL	ASMBS
Alexian Brothers Medical Center 800 Biesterfield Road Elk Grove Village, Illinois 60007	14-0290	08/26/2008	IL	ASMBS 6th Floor
Alegent Health Immanuel Medical Center 6828 North 72nd Street Suite 5500 Omaha, NE 68122	280081	08/29/2008	NE	ASMBS
MountainView Hospital 3100 North Tenya Way Las Vegas, NV 89128	290039	09/03/2008	NV	ASMBS
Southwest Washington Medical Center 400 NE Mother Joseph Place Vancouver, WA 98664	500050	09/08/2008	WA	ASMBS
JFK Medical Center	100080	09/18/2008	FL	ASMBS

5301 South Congress Avenue Atlantis, FL 33462				
McLaren Regional Medical Center 401 South Ballenger Highway Flint, MI 48532	230141	09/24/2008	MI	ASMBS
Cheyenne Regional Medical Center 2301 House Avenue, Suite 500 Cheyenne, WY 82001	530014	09/24/2008	WY	ASMBS
St. Mary Mercy Hospital 14555 Levan Road, Suite 311 Livonia, MI 48154	12200126	09/25/2008	MI	ASMBS
Altru Health System 1000 South Columbia Road Grand Forks, ND 58206	350019	09/25/2008	ND	ASMBS
Lutheran Hospital of Indiana Bariatric Center 7836 West Jefferson, Suite 101 Ft. Wayne, IN 46804	150017	09/25/2008	IN	ASMBS
Seton Medical Center 1201 West 38th Street Austin, TX 78705	450056	09/25/2008	TX	ASMBS
St. Elizabeth and St. Joseph Surgical 452 Broadway Street Youngstown, OH 44504	36-0161	09/25/2008	OH	ASMBS
Henry Ford Macomb Hospital – Warren Campus 13355 East 10 Mile Road Warren, MI 48089	230204	10/07/2008	MI	ASMBS
Saint Alphonsus Regional Medical Center 1055 North Curtis Road Boise, ID 83706	130007	10/07/2008	ID	ASMBS
Riverside Methodist Hospital 3535 Olentangy River Road	36-0006	10/21/2008	OH	ASMBS

Columbus, OH 43214				
Lawrence Hospital Center 55 Palmer Avenue Bronxville, NY 10708	330061	11/05/2008	NY	ACS
Winthrop University Hospital 120 Mineola Boulevard Suite 320 Mineola, NY 11501	330167	11/10/2008	NY	ASMBS
St. John's Regional Medical Center 1700 North Rose Avenue #380 Oxnard, CA 93030	050082	12/02/2008	CA	ASMBS

Addendum XVI—FDG-PET for Dementia and Neurodegenerative Diseases Clinical Trials

In a National Coverage Determination for fluorodeoxyglucose positron emission tomography (FDG-PET) for Dementia and Neurodegenerative Diseases (220.6.13) we indicated that an FDG-PET scan is considered reasonable and necessary in patients with mild cognitive impairment or early dementia only in the context of an approved clinical trial that contains patient safeguards and protections to ensure proper administration, use, and evaluation of the FDG-PET scan.

Facility name	Provider Number	Date approved	State	Name of Trial	Principal Investigator
UCLA Medical Center 10833 Le Conte Avenue Los Angeles, CA 90095	HW13029	06/07/2006	CA	Early and Long-Term Value of Imaging Brain Metabolism	Dr. Daniel Silverman
Santa Monica-UCLA Medical Center 1245 16th Street Suite 105 Santa Monica, CA 90404	W11817A	01/12/2007	CA	N/A	N/A
University of Buffalo 3435 Main Street Buffalo, NY 14214	14414A	03/12/2007	NY	Metabolic Cerebral Imaging in Incipient Dementia (MCI-ID)	Dr. Daniel Silverman

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Friday,
March 27, 2009

Part III

Nuclear Regulatory Commission

10 CFR Parts 50, 52, 72 et al.

Power Reactor Security Requirements; Final Rule

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50, 52, 72, and 73

[NRC–2008–0019]

RIN 3150–AG63

Power Reactor Security Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its security regulations and adding new security requirements pertaining to nuclear power reactors. This rulemaking establishes and updates generically applicable security requirements similar to those previously imposed by Commission orders issued after the terrorist attacks of September 11, 2001. Additionally, this rulemaking adds several new requirements not derived directly from the security order requirements but developed as a result of insights gained from implementation of the security orders, review of site security plans, implementation of the enhanced baseline inspection program, and NRC evaluation of force-on-force exercises. This rulemaking also updates the NRC's security regulatory framework for the licensing of new nuclear power plants. Finally, it resolves three petitions for rulemaking (PRM) that were considered during the development of the final rule.

DATES: *Effective Date:* This final rule is effective on May 26, 2009. *Compliance Date:* Compliance with this final rule is required by March 31, 2010, for licensees currently licensed to operate under 10 CFR Part 50.

ADDRESSES: You can access publicly available documents related to this document using the following methods:

Federal e-Rulemaking Portal: Go to *http://www.regulations.gov* and search for documents filed under Docket ID [NRC–2008–0019]. Address questions about NRC Dockets to Carol Gallagher at 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 Agency Wide 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 the 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's PDR reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr.resource@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Bonnie Schnetzler, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone 301–415–7883; e-mail: *Bonnie.Schnetzler@nrc.gov,* or Mr. Timothy Reed, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone 301–415–1462; e-mail: *Timothy.Reed@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background
II. Petitions for Rulemaking
III. Discussion of Substantive Changes and Responses to Significant Comments
IV. Section-by-Section Analysis
V. Guidance
VI. Criminal Penalties
VII. Availability of Documents
VIII. Voluntary Consensus Standards
IX. Finding of No Significant Environmental Impact
X. Paperwork Reduction Act Statement
XI. Regulatory Analysis
XII. Regulatory Flexibility Certification
XIII. Backfit Analysis
XIV. Congressional Review Act

I. Background

A. Historical Background and Overview

Following the terrorist attacks on September 11, 2001, the Commission issued a series of orders to ensure that nuclear power plants and other licensed facilities continued to have effective security measures in place given the changing threat environment. Through these orders, the Commission supplemented the design basis threat (DBT) as well as mandated specific training enhancements, access authorization enhancements, and enhancements to defensive strategies, mitigative measures, and integrated response. Additionally, through generic communications, the Commission specified expectations for enhanced notifications to the NRC for certain security events or suspicious activities. The four following security orders were issued to licensees:

- EA–02–026, ''Interim Compensatory Measures (ICM) Order,'' issued February 25, 2002 (March 4, 2002; 67 FR 9792);
- EA–02–261, ''Access Authorization Order,'' issued January 7, 2003 (January 13, 2003; 68 FR 1643);
- EA–03–039, ''Security Personnel Training and Qualification Requirements (Training) Order,'' issued April 29, 2003, (May 7, 2003; 68 FR 24514); and
- EA–03–086, ''Revised Design Basis Threat Order,'' issued April 29, 2003, (May 7, 2003; 68 FR 24517).

Nuclear power plant licensees revised their physical security plans, access authorization programs, training and qualification plans, and safeguards contingency plans in response to these orders. The Commission completed its review and approval of the revised security plans on October 29, 2004. These plans incorporated the enhancements required by the orders. While the specifics of these enhancements are protected as Safeguards Information consistent with 10 CFR 73.21, the enhancements resulted in measures such as increased patrols; augmented security forces and capabilities; additional security posts; additional physical barriers; vehicle checks at greater standoff distances; enhanced coordination with law enforcement authorities; augmented security and emergency response training, equipment, and communication; and more restrictive site access controls for personnel including expanded, expedited, and more thorough employee background investigations.

The Energy Policy Act of 2005 (EPAct 2005), signed into law on August 8, 2005, contained several provisions relevant to security at nuclear power plants. Section 653, for instance, added Section 161A. to the Atomic Energy Act of 1954, as amended (AEA). This provision allows the Commission to authorize certain licensees to use, as part of their protective strategies, an expanded arsenal of weapons including machine guns and semi-automatic assault weapons. Section 653 also requires certain security personnel to undergo a background check that includes fingerprinting and a check against the Federal Bureau of Investigation's (FBI) National Instant Criminal Background Check System (NICS) database. Section 161A, however, is not effective until guidelines are completed by the Commission and approved by the Attorney General. More information on the NRC's implementation of Section 161A can be found below.

B. The Proposed Rule

As noted to recipients of the post-September 11, 2001, orders, it was

always the Commission's intent to complete a thorough review of the existing physical protection program requirements and undertake a rulemaking that would codify generically-applicable security requirements. This rulemaking would be informed by the requirements previously issued by orders and includes an update of existing power reactor security requirements, which had not been significantly revised for nearly 30 years. To that end, on October 26, 2006, the Commission issued the proposed Power Reactor Security rulemaking (71 FR 62663). The proposed rule was originally published for a 75-day public comment period. In response to several requests for extension, the comment period was extended on two separate occasions (January 5, 2005; 72 FR 480; and February 28, 2007; 72 FR 8951), eventually closing on March 26, 2007. The Commission received 48 comment letters. In addition, the Commission held two public meetings to solicit public comment in Rockville, MD on November 15, 2006, and Las Vegas, NV on November 29, 2006. The Commission held a third public meeting in Rockville, MD, on March 9, 2007, to facilitate stakeholder understanding of the proposed requirements, and thereby result in more informed comments on the proposed rule provisions.

In addition to proposing requirements that were similar to those that had previously been imposed by the various orders, the proposed rule also contained several new provisions that the Commission determined would provide additional assurance of licensee capabilities to protect against the DBT. These new provisions were identified by the Commission during implementation of the security orders while reviewing the revised site security plans that had been submitted by licensees for Commission review and approval, while conducting the enhanced baseline inspection program, and through evaluation of the results of force-on-force exercises. As identified in the proposed rule, these new provisions included such measures as cyber security requirements, safety/security interface reviews, functional equivalency of the central and secondary alarm stations, uninterruptable backup power for detection and assessment equipment, and video image recording equipment (See 71 FR 62666–62667; October 26, 2006).

The Commission also published a supplemental proposed rule on April 10, 2008, (73 FR 19443) seeking additional stakeholder comment on two provisions of the rule for which the Commission had decided to provide additional detail. The supplemental proposed rule also proposed to move these requirements from appendix C to part 73 in the proposed rule to § 50.54 in the final rule. More detail on those provisions and the comments received is provided in section III of this document.

Three petitions for rulemaking (PRM) (PRM–50–80, PRM–73–11, PRM–73–13) were also considered as part of this rulemaking. Consideration of these petitions is discussed in detail in section II of this document.

C. Significant New Requirements in the Final Rule

This final rulemaking amends the security requirements for power reactors. The following existing sections and appendices in 10 CFR Part 73 have been revised as a result:

- 10 CFR 73.55, Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.
- 10 CFR 73.56, Personnel access authorization requirements for nuclear power plants.
- 10 CFR Part 73, appendix B, section VI, Nuclear Power Reactor Training and Qualification Plan for Personnel Performing Security Program Duties.
- 10 CFR Part 73, appendix C, Licensee Safeguards Contingency Plans.

The amendments also add two new sections to part 73 and a new paragraph to 10 CFR Part 50:

- 10 CFR 73.54, Protection of digital computer and communication systems and networks (*i.e.*, cyber security requirements).
- 10 CFR 73.58, Safety/security interface requirements for nuclear power reactors.
- 10 CFR 50.54(hh), Mitigative strategies and response procedures for potential or actual aircraft attacks.

Specifically, this rulemaking contains a number of significant new requirements listed as follows:

Safety/Security Interface Requirements. These requirements are located in new § 73.58. The safety/security interface requirements explicitly require licensees to manage and assess the potential conflicts between security activities and other plant activities that could compromise either plant security or plant safety. The requirements direct licensees to assess and manage these interactions so that neither safety nor security is compromised. These requirements address, in part, PRM–50–80, which requested the establishment of regulations governing proposed changes to the facilities which could adversely affect the protection against radiological sabotage.

Mixed-Oxide (MOX) Fuel Requirements. These requirements are codified into new § 73.55(l) for reactor licensees who propose to use MOX fuel in concentrations of 20 percent or less. These requirements provide enhancements to the normal radiological sabotage-based physical security requirements by adding the requirement that the MOX fuel be protected from theft or diversion. These requirements reflect the Commission's view that the application of security requirements for the protection of formula quantities of strategic special nuclear material set forth in Part 73, which would otherwise apply because of the MOX fuel's plutonium content, is, in part, unnecessary to provide adequate protection for this material because of the weight and size of the MOX fuel assemblies. The MOX fuel security requirements are consistent with the approach implemented at Catawba Nuclear Station through the MOX lead test assembly effort in 2004–2005.

Cyber Security Requirements. These requirements are codified as new § 73.54 and designed to provide high assurance that digital computer and communication systems and networks are adequately protected against cyber attacks up to and including the design basis threat as established by § 73.1(a)(1)(v). These requirements are substantial improvements upon the requirements imposed by the February 25, 2002 order. In addition to requiring that all new applications for an operating or combined license include a cyber security plan, the rule will also require currently operating licensees to submit a cyber security plan to the Commission for review and approval by way of license amendment pursuant to § 50.90 within 180 days of the effective date of this final rule. In addition, applicants who have submitted an application for an operating license or combined license currently under review by the Commission must amend their applications to include a cyber security plan. For both current and new licensees, the cyber security plan will become part of the licensee's licensing basis in the same manner as other security plans.

Mitigative Strategies and Response Procedures for Potential or Actual Aircraft Attacks. These requirements appear in new § 50.54(hh). Section 50.54(hh)(1) establishes the necessary regulatory framework to facilitate consistent application of Commission requirements for preparatory actions to be taken in the event of a potential or

actual aircraft attack and mitigation strategies for loss of large areas due to fire and explosions. Section 50.54(hh)(2) requires licensees to develop guidance and strategies for addressing the loss of large areas of the plant due to explosions or fires from a beyond-design basis event through the use of readily available resources and identification of potential practicable areas for the use of beyond-readily-available resources. Requirements similar to these were previously imposed under section B.5 of the February 25, 2002, ICM order; specifically, the ''B.5.a'' and the ''B.5.b'' provisions.

Access Authorization Enhancements. Section 73.56 has been substantially revised to incorporate lessons learned from the Commission's implementation of the January 7, 2003 order requirements and to improve the integration of the access authorization and security program requirements. The final rule includes an increase in the rigor for many elements of the pre-existing access authorization program requirements. In addition, the access authorization requirements include new requirements for individuals who have electronic means to adversely impact facility safety, security, or emergency preparedness; enhancements to the psychological assessments requirements; requires information sharing between reactor licensees; expanded behavioral observation requirements; requirements for reinvestigations of criminal and credit history records for all individuals with unescorted access; and 5-year psychological reassessments for certain critical job functions.

Training and Qualification Enhancements. These requirements are set forth in appendix B to part 73 and include modifications to training and qualification program requirements based on insights gained from implementation of the security orders, Commission reviews of site security plans, implementation of the enhanced baseline inspection program, and insights gained from evaluations of force-on-force exercises. These new requirements include additional requirements for unarmed security personnel to assure these personnel meet minimum physical requirements commensurate with their duties. The new requirements also include a minimum age requirement of 18 years for unarmed security officers, enhanced minimal qualification scores for testing required by the training and qualification plan, enhanced qualification requirements for security trainers, armorer certification requirements, program requirements for on-the-job training, and qualification requirements for drill and exercise controllers.

Physical Security Enhancements. The rule imposes new physical security enhancements in the revised § 73.55 that were identified by the Commission during implementation of the security orders, reviews of site security plans, implementation of the enhanced baseline inspection program, and NRC evaluations of force-on-force exercises. Significant new requirements in § 73.55 include a requirement that the central alarm station (CAS) and secondary alarm station (SAS) have functionally equivalent capabilities so that no single act in accordance with the design basis threat of radiological sabotage could disable the key functions of both CAS and SAS. Additions also include requirements for new reactor licensees to locate the SAS within a site's protected area, ensure that the SAS is bullet resistant, and limit visibility into the SAS from the perimeter of the protected area. Revisions to § 73.55 also include requiring uninterruptible backup power supplies for detection and assessment equipment, video image recording capability, and new requirements for protection of the facility against waterborne vehicles.

D. Significant Changes in the Final Rule

A number of significant changes were made to the proposed rule as a result of public comments, and they are now reflected in the final rule. Those changes are outlined as follows:

Separation of Enhanced Weapons and Firearms Background Check Requirements. As noted previously, Section 161A of the AEA permits the Commission to authorize the use of certain enhanced weapons in the protective strategies of certain designated licensees once guidelines are developed by the Commission and approved by the Attorney General. In anticipation of the completion of those guidelines and the Attorney General's approval, the Commission had included in the proposed rule several provisions that would implement its proposed requirements concerning application for and approval of the use of enhanced weapons and firearms background checks. However, because the guidelines had not yet received the approval of the Attorney General as the final rule was submitted to the Commission, the Commission decided to address that portion of the proposed rule in a separate rulemaking. Once the final guidelines are approved by the Attorney General and published in the **Federal Register**, the Commission will take appropriate action to codify the Section 161A. authorities.

Cyber Security Requirements. Another change to this final rulemaking is the relocation of cyber security requirements. Cyber security requirements had been located in the proposed rule in § 73.55(m). These requirements are now placed in new § 73.54 as a separate section within part 73. These requirements were placed in a stand-alone section to enable the cyber security requirements to be made applicable to other types of facilities and applications through future rulemakings.

Establishing these requirements as a stand-alone section also necessitated creating accompanying licensing requirements. Because the cyber security requirements were originally proposed as part of the physical security program and thus the physical security plan, a licensee's cyber security plan under the proposed rule would have been part of the license through that licensing document. Once these requirements were separated from proposed § 73.55, the Commission identified the need to establish separate licensing requirements for the licensee's cyber security plan that would require the plan to be part of a new application for a license issued under part 50 or part 52, as well as continue to be a condition of either type of license. Conforming changes were therefore made to sections §§ 50.34, 50.54, 52.79, and 52.80 to address this consideration. As noted previously and in § 73.54, for current reactor licensees, the rule requires the submission of a new cyber security plan to the Commission for review and approval within 180 days of the effective date of the final rule. Current licensees are required to submit their cyber security plans by way of a license amendment pursuant to 10 CFR § 50.90. In addition, applicants for an operating license or combined license who have submitted their applications to the Commission prior to the effective date of the rule are required to amend their applications to the extent necessary to address the requirements of § 73.54.

Performance Evaluation Program Requirements. The Performance Evaluation Program requirements that were in proposed appendix C to part 73, are moved in their entirety to appendix B to part 73 as these requirements describe the development and implementation of a training program for training the security force in the response to contingency events.

Mitigative Strategies and Response Procedures for Potential or Actual Aircraft Attacks. Another significant change to this rulemaking is the

relocation of and the addition of clarifying rule language to the beyond-design basis mitigative measures and potential aircraft threat notification requirements that were previously located in proposed part 73, appendix C. Those requirements are now set forth in 10 CFR 50.54(hh). This change was made, in part, in response to stakeholder comments that part 73, appendix C, was not the appropriate location for these requirements because the requirements were not specific to the licensee's security organization. The Commission agreed and relocated the requirements accordingly and provided more details to the final rule language to ensure that the intent of these requirements is clear. As noted previously, the Commission issued a supplemental proposed rule seeking additional stakeholder comment on these proposed changes to the rule. More detail on this provision is provided in Section III of this document.

Section 73.71 and Appendix G to Part 73. The proposed power reactor security rulemaking contained proposed requirements for § 73.71 and appendix G to part 73. Based on public comments, the Commission intended to make few changes to these regulations. However, these provisions are not contained in this final rulemaking. Because the enhanced weapons rulemaking (discussed previously) will include potential changes to § 73.71 and appendix G to part 73, the Commission decided that revisions to these regulations were better suited for that rulemaking.

Security Plan Submittal Requirements. The proposed rule would have required current licensees to revise their physical security plan, training and qualification plans, and safeguards contingency plan to incorporate the new requirements and to submit these security plans for Commission review and approval. The final rule no longer requires these security plans (with the exception of the cyber security plan as discussed previously) to be submitted for prior Commission review and approval and instead allows licensees to make changes in accordance with existing licensing provisions such as § 50.54(p) or § 50.90, as applicable. The Commission determined that this was an acceptable approach because most of the requirements established by this rule are substantially similar to the requirements that had been imposed by the security orders and because all licensee security plans were recently reviewed and approved by the Commission in 2004 following issuance of those orders. Additionally, many of the additional requirements in the final rule are already current practices that were implemented following an industry-developed, generic, security plan template that was reviewed and approved by the Commission. For the requirements that go beyond current practices, the Commission does not expect that changes required by this rule would result in a decrease of effectiveness in a licensee's security plan. For implementation of those new requirements, licensees should, therefore, consider whether their plans could be revised in accordance with the procedures described in § 50.54(p). However, if a licensee believes that a plan change may reduce the effectiveness of a security plan or if the licensee desires Commission review and approval of the plan change, then the proposed plan revision should be submitted to the NRC for review and approval as a license amendment per § 50.90.

With respect to applicants who have already submitted an application to the Commission for an operating license or combined license as of the effective date of this rule, those applicants are required by this rule to amend their applications to the extent necessary to address the requirements of the new rule.

Implementation of the Final Rule. The final rule is effective 30 days following date of publication. This permits applicability of the rule's requirements to new reactor applicants at the earliest possible date. Current licensees are required to be in compliance with the rule requirements by March 31, 2010.

Definitions. The proposed rule contained a number of definitions, primarily related to the proposed enhanced weapons requirements. As noted previously, the enhanced weapons provisions and firearms backgrounds checks have been separated into a separate rulemaking so codifying those definitions is no longer appropriate in this rulemaking. Regarding the other proposed rule definitions of safety/security interface, security officer, and target sets, these terms are addressed in guidance, and accordingly the final rule does not contain these definitions.

EPAct 2005 Provisions. As noted above, the proposed rule contained a number of proposed requirements that were designed to address security-related provisions of the EPAct 2005. With respect to Section 653 of the EPAct 2005, enhanced weapons and firearms background check requirements have been moved to a separate rulemaking. The only other provisions of the EPAct 2005 that the Commission had considered during this rulemaking were in Section 651, which concerns matters related to the triennial Commission-evaluated, force-on-force exercises, the NRC's mitigation of potential conflicts of interest in the conduct of such exercises, and the submission of annual reports by the NRC to Congress. Because the statute requires the NRC to be directly responsible for implementation of those requirements, the Commission has determined that there is no need for them to be specifically reflected in the NRC's regulations. The NRC has fully complied with all of the requirements of Section 651 in its conduct of force-on-force evaluations since the EPAct 2005, and has submitted three annual reports to Congress during that time. Further discussion of and the Commission's response to a comment on this issue are provided below in Section III.

E. Conforming and Corrective Changes

Conforming changes to the requirements listed below are made to ensure that cross-referencing between the various security regulations in part 73 is preserved, implement cyber security plan submittal requirements, and preserve requirements for licensees who are not within the scope of this final rule. The following requirements contain conforming changes:

- Section 50.34, ''Contents of construction permit and operating license applications; technical information,'' is revised to align the application requirements with appendix B to 10 CFR part 73, the addition of § 73.54 to part 73, and the addition of § 50.54(hh) to part 50.
- Section 50.54, ''Conditions of licenses,'' is revised to conform with the revisions to sections in appendix C to 10 CFR Part 73. In accordance with the introductory text to § 50.54, revisions to this section are also made applicable to combined licenses issued under part 52.
- Section 52.79, ''Contents of applications; technical information in the final safety analysis report,'' is revised to align the application requirements with the revisions to appendix C to 10 CFR Part 73 and the addition of § 73.54 to Part 73.
- Section 52.80, ''Contents of applications; additional technical information,'' is revised to add the application requirements for § 50.54(hh) to part 50.
- Section 72.212, ''Conditions of general license issued under § 72.210,'' is revised to reference the appropriate revised paragraph designations in § 73.55.
- Section 73.8, ''Information collection requirements: OMB approval,'' is revised to add the new

requirements (§§ 73.54 and 73.58) to the list of sections with Office of Management and Budget (OMB) information collection requirements. A corrective revision to § 73.8 is made to reflect OMB approval of existing information collection requirements for NRC Form 366 under existing § 73.71.

• Section 73.70, ''Records,'' is revised to reference the appropriate revised paragraph designations in § 73.55 regarding the need to retain a record of the registry of visitors.

Additionally, § 73.81, ''Criminal penalties,'' which sets forth the sections within part 73 that are not subject to criminal sanctions under the AEA, remains unchanged because willful violations of the new §§ 73.54 and 73.58 may be subject to criminal sanctions.

Appendix B to part 73 and appendix C to part 73 require special treatment in this final rule to preserve, with a minimum of conforming changes, the current requirements for licensees and applicants who are not within the scope of this final rule, such as Category I strategic special nuclear material licensees and research and test reactor licensees. Accordingly, Sections I through V of appendix B to part 73 remain unchanged to preserve the current training and qualification requirements for all applicants, licensees, and certificate holders who are not within the scope of this final rule, and the new language for power reactor security training and qualification (revised in this final rule) is added as Section VI. Part 73, appendix C, is divided into two sections, with Section I maintaining all current requirements for licensees and applicants not within the scope of this final rule, and Section II containing all new requirements related to power reactor contingency response.

II. Petitions for Rulemaking

Three petitions for rulemaking were considered during the development of the final rule requirements consistent with previous petition resolution and closure process for these petitions (*i.e.*, PRM–50–80, PRM–73–11, and PRM–73–13). All three petitions are closed, and the discussion that follows provides the Commission's consideration of the issues raised in each petition as part of the development of the final power reactor security requirements.

A. PRM–50–80

PRM–50–80, submitted by the Union of Concerned Scientists (UCS) and the San Luis Obispo Mothers for Peace (SLOMFP), was published for public comment on June 16, 2003, (68 FR 35568). The petition requested that the Commission take two actions. The first action was to amend 10 CFR 50.54(p), ''Conditions of licenses,'' and 10 CFR 50.59, ''Changes, tests, and experiments,'' to require licensees to evaluate whether proposed changes, tests, or experiments cause protection against radiological sabotage to be decreased and, if so, to conduct such actions only with prior Commission approval. The second action requested that the Commission amend 10 CFR Part 50 to require licensees to evaluate their facilities against specified aerial hazards and make necessary changes to provide reasonable assurance that the ability of the facility to reach and maintain safe shutdown would not be compromised by an accidental or intentional aerial assault. The second action (regarding aerial hazards) was previously considered and resolved as part of the final design basis threat (DBT) (§ 73.1) rulemaking (March 19, 2007; 72 FR 12705). On November 17, 2005, (70 FR 69690), the Commission decided to consider the petitioner's first request for rulemaking (*i.e.*, evaluation of proposed changes, tests, or experiments to determine whether radiological sabotage protection is decreased). Proposed language addressing the issues raised in the petition was published as proposed § 73.58, ''Safety/security interface requirements for nuclear power reactors.'' This section remains in the final rule. Refer to the section-by-section analysis in this document, supporting § 73.58 for further discussion of the safety/security interface requirements.

B. PRM–73–11

PRM–73–11, submitted by Scott Portzline, Three Mile Island Alert, was published for public comment on November 2, 2001 (66 FR 55603). The comment period closed on January 16, 2002. Eleven comment letters were received. Of the 11 comments filed, 7 were from governmental organizations, 2 were from individuals, and 2 were from industry organizations. The majority of the comments support the petitioner's recommendation.

The petitioner requested that the NRC regulations governing physical protection of plants and materials be amended to require NRC licensees to post at least one armed guard at each entrance to the ''owner controlled areas'' (OCA) surrounding all U.S. nuclear power plants. The petitioner stated that this should be accomplished by requiring the addition of armed site protection officers (SPO) to the total number of SPOs—not by simply shifting SPOs from their protected area (PA) posts to the OCA entrances. The petitioner believes that the proposed amendment would provide an additional layer of security that would complement existing measures against radiological sabotage and would be consistent with the long-standing principle of defense-in-depth.

In a **Federal Register** Notice published December 27, 2006 (72 FR 481), the Commission informed the public that PRM–73–11 and the public comments filed on the petition would be considered in this final rule. Consideration of PRM–73–11 and the associated comments was undertaken as part of the effort to finalize the requirements governing security in the OCA.

The Commission has concluded that prescriptively requiring armed security personnel in the OCA is not necessary. Instead, the final physical security requirements in § 73.55(k) allows licensees the flexibility to determine the need for armed security personnel in the OCA, as a function of site-specific considerations, such that the licensee can defend against the DBT with high assurance. In reaching this determination, the Commission recognized that the requirements governing protective strategies must be more performance-based to enable licensees to adjust their strategies to address the site-specific circumstances and that a prescriptive requirement for armed security personnel in the owner controlled area may not always be the most effective approach for every licensee in defending against the DBT. The Commission constructed the final physical security requirements, recognizing the range of site-specific circumstances that exist, to put in place the performance objectives that must be met, and where possible, provided flexibility to licensees to construct strategies that meet the objectives.

C. PRM–73–13

PRM–73–13, submitted by David Lochbaum, Union of Concerned Scientists, was published for public comment on April 9, 2007 (72 FR 17440) and the comment period closed June 25, 2007.

The petitioner requested that the Commission amend part 73 to require that licensees implement procedures to ensure that, when information becomes known to a licensee about an individual seeking access to the protected area that would prevent that individual from gaining unescorted access to the protected area of a nuclear power plant, the licensee will implement measures to ensure the individual does not enter the protected area, whether escorted or not. Further, the petitioner requested that the NRC's regulations be amended to

require that, when sufficient information is not available to a licensee about an individual seeking access to the protected area to determine whether the criteria for unescorted access are satisfied, the licensee will implement measures to allow that individual to enter the protected area only when escorted at all times by an armed member of the security force who maintains communication with security supervision.

The Commission determined that the issues raised in PRM–73–13 were appropriate for consideration and were in fact issues already being considered in the Power Reactor Security Requirements rulemaking. Accordingly, the issues raised by PRM–73–13 and the public comments received were considered as part of the effort to finalize the requirements that govern escort and access within the protected area (refer to requirements in § 73.55(g) and § 73.56(h) for the specific final rule requirements).

The Nuclear Energy Institute (NEI) commented on PRM–73–13, with 11 other industry organizations agreeing (hereafter referred to collectively as commenters). The commenters agreed that the petitioner's first request (with regard to preventing an individual to have access to the protected area when derogatory information becomes known) should be issued as a notice of proposed rulemaking. Neither NEI nor any of the other commenters commented on any of the specific language proposed by the petitioner. With regard to the second provision proposed by the petitioner (requiring armed escorts for certain visitors), the commenters did not agree with the proposal. The commenters argued that the use of trained individuals, though not necessarily armed, in conjunction with search equipment and techniques as well as the limitation placed on visitors (*i.e.*, that visitors must have a ''work-related need'' for entry into the PA) have resulted in no incidents that warrant imposing this new requirement.

The Commission has decided not to adopt either proposal. Regarding the petitioner's second proposal, the Commission agrees with the commenters that the current protective measures for escorted personnel are sufficient to protect against the scenario presented by the petitioner. Licensee escorted access programs have been in place for years without incident, and the petitioner has not provided a basis that raises questions about their sufficiency.

With respect to the petitioner's first proposal, the Commission does not agree that the NRC's unescorted access requirements described in § 73.56 and § 73.57 need to contain prescriptive disqualifiers for access. Licensees are required by § 73.56(h) in this final rule to consider all of the information obtained in the background investigation for determining whether an individual is trustworthy and reliable before granting unescorted access. With the exception of individuals who have been denied access to another facility, the regulation does not specify types of information obtained during a background investigation that would automatically disqualify an individual from access. The final rule § 73.55(g)(7), however, does have several restrictions on escorted access (visitors) including verification of identity, verification of reason for business inside the protected area, and collection of information (visitor control register) pertaining to the visitor. In addition, there are several conditions that individuals who escort the visitor must adhere to including continuous monitoring of the visitor while inside the protected area, having a means of timely communication with security, and having received training on escort duties. Lastly, licensees may not allow any individual who is currently denied access at any other facility to be a visitor.

Furthermore, the petitioner's suggested language that a licensee must act to deny escorted access when such information ''becomes known to the licensee'' is unworkable from a regulatory perspective. It is unclear what the NRC could impose on licensees as an enforceable standard for such a scenario. In order to avoid potential enforcement action, a licensee would be put in a position to conduct a full background investigation on a visitor each time access is requested, which would undermine the entire purpose behind having the ability to escort visitors on site, or, in accordance with the petitioner's second suggestion, assign an armed security officer to escort that individual. The Commission does not have a basis to impose either measure, and the petitioners have not provided a basis in support of it. Section 73.55(g), however, does not allow individuals currently denied access at other facilities to be a visitor.

III. Discussion of Substantive Changes and Responses to Significant Comments

A. Introduction

A detailed discussion of the public comments submitted on the proposed power reactor security rule and supplemental proposed rule as well as the Commission's responses are contained in a separate document (see Section VII, ''Availability of Documents,'' of this document). This section discusses the more significant comments submitted on the proposed power reactor security provisions and the substantive changes made to develop the final power reactor security requirements.

The changes made to the power reactor security requirements are discussed by part, with changes to part 50 requirements being discussed first, followed by the changes to part 73 requirements, and proceeding in numerical order according to the section number. General topics are discussed first, followed by discussion of changes to individual sections as necessary. In addition to the substantive changes, rule language was revised to make conforming administrative changes, correct typographic errors, adopt consistent terminology, correct grammar, and adopt plain English. These changes are not discussed further.

Note that some of the final rule requirements were relocated. An example is the cyber security requirements that were issued as proposed § 73.55(m) and now reside in § 73.54.

Comments on the three PRMs are not explicitly addressed in the detailed comments response document, beyond those discussed earlier in Section II of this document, as this document addresses only the comments submitted on the proposed rule. However, the petitioner's comments were considered as part of the Commission's decision-making process and final determination of the rule requirements for each of the areas of concern.

Comments on the supporting regulatory analysis of the proposed rule are also contained in the detailed comment response document. Revisions to the final rule regulatory analysis were made consistent with the comment responses and these comments are not addressed further in this section.

The Commission solicited public comment on a number of specific issues but received input on only one of these specific issues. Specifically, the Commission requested stakeholders to provide insights and estimates on the feasibility, costs, and time necessary to implement the proposed rule changes to existing alarm stations, supporting systems, video systems, and cyber security. A commenter stated that the feasibility of establishing a cyber security program for industrial control systems has been demonstrated by various electric utilities, chemical plants, refineries, and other facilities with systems similar, if not identical, to those used in the balance-of-plant in commercial nuclear plants. The

commenter stated that the time and cost necessary to implement a cyber security program is dependent on the scope and discussed the technologies and programmatic approaches that can be pursued to augment current industry-proposed generic recommendations. The Commission focused significant attention on the cyber requirements and supporting guidance during development of the final cyber security requirements in § 73.54 as discussed below.

In general, there was a range of stakeholder views concerning this rulemaking, some supporting the rulemaking, others opposing the rulemaking. Some stakeholders viewed this rulemaking as an effort to codify the insufficient status quo while others described the new requirements as going well beyond the post-September 11, 2001, order requirements. The Commission believes that commenters who suggested that the Commission had no basis to go beyond the requirements that were imposed by the security orders misunderstood the relationship of those orders and the rulemaking. The security orders were issued based on the specific knowledge and threat information available to the Commission at the time the orders were issued. The Commission advised licensees who received those orders that the requirements were interim and that the Commission would eventually undertake a more comprehensive re-evaluation of current safeguards and security programs. As noted in the proposed rule, there were a number of objectives for the rulemaking beyond simply making generically applicable security requirements similar to those that were imposed by Commission orders. The Commission intended to implement several new requirements that resulted from insights it gained from implementation of the security orders, review of site security plans, implementation of the enhanced baseline inspection program, and evaluation of force-on-force exercises. These insights were obviously not available to the Commission when it issued the original security orders in 2002 and 2003.

In addition, another key objective of this rulemaking was to update the regulatory framework in preparation for receiving license applications for new reactors. The current security regulations in part 73 have not been substantially revised for nearly 30 years. Before September 11, 2001, the NRC staff had already undertaken an effort to revise these dated requirements, but that effort was delayed (See SECY–01–0101, June 4, 2001). Thus, this rulemaking addresses a broader context of security issues than the focus of the security orders of 2002 and 2003. One significant issue in particular was the need for clearly articulated security requirements and a logical regulatory framework for new reactor applicants. The revisions to part 73 were also intended to provide it with needed longevity and predictability for current and future licensees with a measured attempt to anticipate future developments or needs in physical protection.

B. Section 50.54(hh), Mitigative Strategies and Response Procedures for Potential or Actual Aircraft Attacks

As noted previously, a significant change to this final rule is the relocation of and provision of more detailed requirements for the beyond-design basis mitigative measures and potential aircraft attack notification requirements from proposed part 73, appendix C, to 10 CFR 50.54(hh). The Commission received several stakeholder comments that the proposed part 73, appendix C, was not the appropriate location for these requirements. During consideration of these comments, the Commission also decided to add additional detail to the aircraft attack notification portion of the requirements now located in § 50.54(hh)(1). In response, the Commission issued a supplemental proposed rule seeking additional stakeholder comment on these proposed revisions on April 10, 2008, (73 FR 19443) for a 30 day comment period. The Commission received six sets of comments on the supplemental proposed rule. The responses to those comments are discussed as follows.

The Commission revised the final rule language for § 50.54(hh)(1)(ii) in response to comments that the final rule should only require periodic updates to applicable entities or that communications should be maintained ''as necessary and as resources allow.'' The Commission intended the continuous communication requirement to apply to licensees only with respect to aircraft threat notification sources and not to all offsite response or government organizations. The Federal Aviation Administration (FAA) local, regional, or national offices; North American Aerospace Defense Command (NORAD); law enforcement organizations; and the NRC Headquarters Operations Center are examples of threat notification sources with which licensees would be required to maintain a continuous communication capability. If a licensee encounters a situation in which multiple threat notification sources (*e.g.*, FAA, NORAD, and NRC Headquarters Operations Center) are providing the same threat information, the licensee would only be required to maintain continuous communication with the NRC Headquarters Operations Center. Because licensees need to be aware when they can cease or must accelerate mitigative actions, it is important that licensees do not lose contact with aircraft threat notification sources. Periodic updates to entities other than threat notification sources are permitted by this final rule.

In response to comments that §§ 50.54(hh)(1)(iii), 50.54(hh)(1)(iv), and 50.54(hh)(1)(vi) requirements were redundant to those found in the NRC's existing emergency preparedness rules, the Commission revised the final rule language for each of those paragraphs to clarify the Agency's intent and to eliminate the appearance of redundant requirements vis-à-vis the emergency preparedness rules, which are also currently being revised. The intent of § 50.54(hh)(1)(iii) is to ensure that licensees contact offsite response organizations as soon as possible after receiving aircraft threat notifications. There is no expectation that licensees will complete and disseminate notification forms as the previous rule text implied. Section 50.54(hh)(1)(iv) pertains to operational actions that licensees can take to mitigate the consequences of an aircraft impact; the Commission did not intend this requirement to include emergency preparedness-related protective actions. In § 50.54(hh)(1)(vi), the Commission intended to require licensees to disperse essential personnel and equipment to pre-identified locations after receiving aircraft threat notifications, but before actual aircraft impacts, when possible. Also, the requirement for licensees to facilitate rapid entry into their protected areas applies only to those onsite personnel and offsite responders who are necessary to mitigate the event and not to everyone who was initially evacuated from the protected areas.

The Commission revised the statements of consideration for § 50.54(hh)(1)(vi) in response to a comment that meeting the rule might require licensees to suspend security measures under 10 CFR 50.54(x). The Commission elaborated on the specific intent of the protected area evacuation timeline assessment and validation, which is to require licensees to establish a decision-making tool for use by shift operations personnel to assist them in determining the appropriate onsite protective action for site personnel for various warning times and site population conditions. The Commission

expects that licensees will incorporate this tool into applicable site procedures to reduce the need to make improvised decisions that would necessitate a suspension of safeguards measures during the pre-event notification period. However, the Commission wishes to make clear that the suspension of security measures to protect the health and safety of security force personnel during emergencies is now governed by § 73.55(p)(1)(i) as codified in this final rule. Previously, there was no specific provision in the Commission's regulations that would have permitted such a departure, because under § 50.54(x), licensees are only permitted to suspend security measures if the health and safety of the public was at risk. Note that, in a § 50.54(hh) scenario, either §§ 50.54(x) or 73.55(p) could be applicable depending on the circumstances.

The Commission revised the final rule requirements in § 50.54(hh) in response to a comment that the final rule should include an applicability statement that removes the requirements of § 50.54(hh) from reactor facilities currently in decommissioning and for which the certifications required under § 50.82(a)(1) have been submitted. The commenter indicated that it is inappropriate that § 50.54(hh) should apply to a permanently shutdown and defueled reactor where the fuel was removed from the site or moved to an independent spent fuel storage installation (ISFSI). The NRC agrees with this comment and revised the final requirements in § 50.54(hh) so they do not apply to facilities for which certifications have been filed under § 50.82(a)(1) or § 52.110(a)(1). The Commission notes that § 50.54(hh) does not apply to any current decommissioning reactor facilities that have already satisfied the § 50.82(a) requirements.

The Commission requested stakeholder feedback on two questions in the supplemental proposed rule. Regarding the first question in the supplemental proposed rule notice where the Commission requested input on whether there should be additional language added to the proposed § 50.54(hh) requirements that would limit the scope of the regulation (*i.e.*, language that would constrain the requirements to a subset of beyond-design basis events such as beyond-design basis security events), commenters indicated that the Commission should constrain the requirements to a subset of beyond-design basis events; namely beyond design basis security events. The feedback suggested that, by limiting the rule requirements to strategies that address a generic set of beyond-design basis security events, the strategies could then be developed and proceduralized to focus on the restoration capabilities needed to mitigate the effects from these events. After careful consideration, the Commission decided to maintain the language from the supplemental proposed rule that recognizes that the mitigative strategies can address losses of large areas of a plant and the related losses of plant equipment from a variety of causes including aircraft impacts and beyond-design basis security events. The Commission also requested comments on whether applicants should include, as part of a combined license or operating license application, the § 50.54(hh) procedures, guidance, and strategies. Commenters indicated that this information will not be needed until fuel load, when an aircraft threat would be present. The most appropriate and efficient process for the Commission is to review these procedures as part of the review of operations procedures and beyond-design basis guidelines. The Commission views the mitigative strategies as similar to those operational programs for which a description of the program is provided and reviewed by the Commission as part of the combined license application and subsequently the more detailed procedures are implemented by the applicant and inspected by the NRC before plant operation. Because the Commission finds that the most effective approach is for the mitigative strategies, at least at the programmatic level, to be developed before construction and reviewed and approved during licensing, a requirement for information has been added to § 52.80, ''Contents of applications; additional technical information,'' and § 50.34, ''Contents of construction permit and operating license applications; technical information.''

C. Section 73.2, Definitions

The proposed rule contained a number of definitions, primarily related to the proposed enhanced weapons requirements. As noted earlier, the enhanced weapons provisions and firearms backgrounds checks have been separated into a separate rulemaking, so codifying those definitions is no longer appropriate here. Regarding the other definitions of safety/security interface, security officer, and target sets; the Commission has determined that those terms are better defined through guidance.

D. Section 73.54, Protection of Digital Computer and Communication Systems and Networks

General Comments. Proposed § 73.55(m) is relocated in the final rule to a stand-alone section (10 CFR 73.54). The Commission received several comments that the inclusion of a cyber security program within the proposed § 73.55(m) is not appropriate because cyber security is not implemented by physical security personnel. The Commission agrees that the cyber security program would not necessarily be implemented by security personnel and recognizes that a uniquely independent technical expertise and knowledge is required to effectively implement the cyber security program. Additionally, these requirements were placed into a stand alone section to enable the cyber security requirements to be made applicable to other types of facilities and applications through future rulemakings. The rule now requires that these requirements apply to nuclear power plant licensees in the same manner as the access authorization program required by § 73.56; the cyber security plan is subject to the same licensing requirements as the licensee's physical security, training and qualification, and safeguards contingency plans. In relocating these requirements, the Commission concluded that certain administrative requirements, otherwise applied by inclusion in § 73.55, must be brought forward for consistency. As a result, conforming changes were made to the pre-existing §§ 50.34(c) and 50.34(e) to establish the appropriate regulatory framework for Commission review and approval of the cyber security plan required by § 73.54(e). These conforming changes require nuclear power reactor applicants to provide a cyber security plan as part of the security plans currently required by §§ 50.34(c) or 52.79(a)(36), as applicable. Additionally, conforming changes were made to § 50.54(p), applicable to both operating and combined licensees, to require a cyber security plan as a condition of the license. Conforming changes were also made to §§ 50.34(e) and 52.79(a)(36) to require applicants to review this plan against the criteria for Safeguards Information established in § 73.21. Consistent with § 73.54(b)(3), the cyber security program is a part of the physical protection program subject to the same review and approval mechanisms as the physical security plan, training and qualification plan, and safeguards contingency plan.

The Commission has also added three (3) administrative requirements to the final rule (§§ 73.54(f), 73.54(g), and 73.54(h)) to require written policies and procedures, program review, and records retention, respectively.

In addition to the previously mentioned conforming changes, the Commission added an undesignated paragraph at the beginning of this section to require current licensees subject to § 73.54 to submit a cyber security plan and implementation schedule for Commission review and approval. The licensee's cyber security plan must be submitted by way of a license amendment pursuant to 10 CFR 50.90.

Section 73.54(a), Protection. The Commission received a comment suggesting that the term ''emergency preparedness,'' as it appears in the proposed § 73.55(m)(1), should be replaced with the term ''emergency response.'' In the final rule, the term ''emergency preparedness'' is replaced with the more generic term ''emergency preparedness functions.'' The equipment embodied within these preparedness functions as described in 10 CFR Part 50, appendix E, usually includes a wide variety of plant monitoring systems, protection systems, and the onsite and offsite emergency communications systems used during an emergency event.

The term ''emergency response'' suggested by the commenter is used more specifically to refer only to the ''emergency response data system'' or ERDS, which provides a data link that transmits key plant parameters. Therefore, using the term ''emergency preparedness functions'' is considered the most appropriate term as it holistically addresses the equipment used during an emergency.

The Commission revised the proposed § 73.55(m)(1) which is renumbered in the final rule as § 73.54(a). This paragraph has been expanded to provide a more detailed list of the types of systems and networks that are intended to be included consistent with the proposed rule. The language in § 73.54(a)(1)(ii) is revised to clarify that ''digital computer and communications systems and networks'' must be considered for protection. It is important to note that the Commission does *not* intend that CAS or SAS operators be responsible for cyber security detection and response but rather that this function will be performed by technically trained and qualified personnel.

Section 73.54(b), Analysis of Digital Computer and Communication Systems and Networks. The requirement to document a site-specific analysis that identifies site-specific conditions has been brought forward from § 73.55(b)(4). The rule is clarified to require that each licensee analyze the digital computer and communication systems and networks in use at their facility to identify those assets that require protection against the design basis threat.

The proposed § 73.55(m)(1) requirement to establish, implement, and maintain a cyber security program is renumbered in the final rule as § 73.54(b)(2). The rule requires that the cyber security program will include measures for the adequate protection of the digital computer and communication systems and networks identified by the licensee through the required site-specific analysis stated in § 73.54(b)(1).

The proposed § 73.55(m)(1)(ii) is renumbered in the final rule as § 73.54(b)(3). The Commission received several comments that the cyber security program is not appropriate for incorporation into the physical security program and, therefore, should not be implemented through the security organization. The Commission agrees in part. Cyber security, like physical security, focuses on the protection of equipment and systems against attacks by those individuals or organizations that would seek to cause harm, damage, or adversely affect the functions performed by such systems and networks. Cyber security and physical security programs are intrinsically linked and must be integrated to satisfy the physical protection program design criteria of § 73.55(b). The Commission recognizes that a uniquely independent technical expertise and knowledge is required to implement the cyber security program effectively, and therefore, the specific training and qualification requirements for the program must focus on ensuring that the personnel are trained, qualified, and equipped to perform their unique duties and responsibilities.

Section 73.54(c), Cyber Security Program. The proposed § 73.55(m)(1)(iii) is renumbered in the final rule as § 73.54(c) and (c)(1), and is revised to clarify appropriate design requirements for the cyber security program. The cyber security program must be designed to implement security controls to protect the digital assets identified by the paragraph (b)(1) analysis. To accomplish this, the final rule § 73.54(c)(2), (3), and (4) are added to clarify the performance criteria to be met through implementation of the cyber security program.

The Commission received a comment that the term ''protected computer system'' in the proposed § 73.55(m)(1)(iii) is not defined and urged a more specific description. The Commission has deleted the term ''protected computer system'' from the final rule and provided a more detailed description of digital computer and communication systems and networks in § 73.54(a)(1).

The Commission received a comment that the high assurance requirement of the proposed § 73.55(m)(1) does not allow a licensee to implement measures designed to ensure continued functionality. Section 73.54(c)(4) has been revised to require the cyber security program to be designed to ensure that the intended function of the assets identified by § 73.54(b)(1) are maintained.

The proposed § 73.55(m)(5) is renumbered in the final rule as § 73.54(c)(2). The Commission received a comment to the proposed § 73.55(m)(5) that questioned whether the phrase ''defense-in-depth'' in computer terminology was intended to include real-time backup data. The Commission concluded that defense-in-depth for digital computer and communication systems and networks includes technical and administrative controls that are integrated and used to mitigate threats from identified risks. The need to back-up data as part of a defense-in-depth program is dependent upon the nature of the data relative to its use within the facility or system.

Defense-in-depth is achieved when (1) a layered defensive model exists that allows for detection and containment of non-authorized activities occurring within each layer, (2) each defensive layer is protected from adjacent layers, (3) protection mechanisms used for isolation between layers employ diverse technologies to mitigate common cause failures, (4) the design and configuration of the security architecture and associated countermeasures creates the capability to sufficiently delay the advance of an adversary in order for preplanned response actions to occur, (5) no single points of failure exist within the security strategy or design that would render the entire security solution invalid or ineffective, and (6) effective disaster recovery capabilities exist for protected assets.

The commenter also questioned how this requirement impacts the video image recording system, which is a computer system required by § 73.55(e)(7)(i)(C). Based upon the licensee's site-specific analysis, the video image recording system may be subject to this requirement if it meets

the criteria stipulated in § 73.54(a)(2), but it is not required to be included by the final rule.

Section 73.54(d), Cyber-Related Training, Risk, and Modification Management. The Commission has consolidated the proposed requirements from §§ 73.55(m)(2), (m)(6), and (m)(7) into one paragraph of the § 73.54(d) to require the development, implementation, and maintenance of supporting programs within the cyber security program. The Commission has moved proposed § 73.54(m)(6) to § 73.54(d)(3) and clarified it to require that an evaluation be performed prior to modifications to protected digital assets to ensure that the cyber performance objectives of § 73.54 are maintained.

The Commission received a comment to the proposed rule § 73.55(m)(2) requesting clarification of what is meant by ''assessment.'' The term ''assessment'' has been removed from the final rule. To ensure that the measures used to protect digital computer and communication systems and networks remain effective and continue to meet high assurance expectations, the cyber security program must evaluate and manage cyber risks. Licensees must evaluate changes to systems and networks when (1) modifications are proposed for previously analyzed systems and (2) new technology-related vulnerabilities, not previously analyzed in the original analysis, that would act to reduce the cyber security environment of the system are identified.

Section 73.54(e), Cyber Security Plan. The proposed § 73.55(m)(1)(i) is renumbered in the final rule as § 73.54(e). The Commission added a new § 73.54(e)(1) generically addressing the content of the cyber security plan. The plan must describe and account for any site-specific conditions that affect how Commission requirements are implemented.

The proposed § 73.55(m)(4)(ii) is deleted from the final rule. Consistent with the removal of this section from the proposed § 73.55(m), the Commission concluded that it is appropriate to address the cyber security incident response and recovery plan in the cyber security plan required by this section. The rule requires that the cyber security incident response and recovery plan will be part of the cyber security plan which in turn will be a component of the physical security program.

The proposed §§ 73.55(m)(4)(i) and (m)(4)(iii) are combined and renumbered to the final rule § 73.54(e)(2). The Commission received a comment to the proposed § 73.54(m)(4)(i) that there should be a rule requirement prescribing the timeframe in which a licensee must determine that a cyber attack is occurring or has occurred and suggested that it be within minutes of the attack. The Commission agrees with the commenter's concerns. The proposed § 3.54(m)(4)(iii) is renumbered in the final rule as § 73.54(e)(2)(i) and is revised to require a description in the cyber plan of how the licensee will maintain the capability for timely detection and response to cyber attacks. Licensees are required to develop, implement, and maintain a methodology for detecting cyber attacks; however, they are not required to meet deterministic time limits for discovery of a cyber attack. The cyber security program must be designed to ensure that cyber attacks are detected and an appropriate response is initiated to prevent the attack from adversely affecting the systems and networks that must be protected. The Commission has concluded that the § 73.54 performance-criteria and requirements ensure that detection and response are appropriate.

Section 73.54(f), Policies and Procedures. The proposed § 73.55(m)(3) is renumbered in the final rule as § 73.54(f). The Commission added § 73.54(f) to clarify that policies, implementing procedures, site-specific analysis, and other supporting technical information used by the licensee need not be submitted for Commission review and approval as part of the cyber security plan. However, this information must be made available upon request by an authorized representative of the Commission.

Section 73.54(g), Reviews. The Commission added the final rule § 73.54(g). The requirement for the review of the cyber security program is subject to the same processes stipulated in § 73.55(m), ''Security program reviews.''

Section 73.54(h), Records. The Commission added the final rule § 73.54(h). Consistent with establishing § 73.54 as a stand-alone 10 CFR section, this requirement for the retention of the cyber security program records is brought forward from the final rule § 73.55(q), ''Records.'' The expectation is that each licensee will maintain the technical information associated with the assets identified by the final rule § 73.54(b)(1) that is pertinent to compliance with § 73.54.

E. Section 73.55, Requirements for Physical Protection of Licensed Activities in Nuclear Power Reactors Against Radiological Sabotage

General Comments. The Commission received several general comments which stated that the proposed § 73.55 does not include requirements for protection against aircraft attacks. As the Commission recently stated in the final design basis threat rulemaking (72 FR 12705; March 19, 2007), the protection of NRC-regulated facilities against aircraft attacks is beyond the scope of a licensee's obligations. Accordingly, requiring specific measures for the protection against aircraft attacks is beyond the scope of the requirements presented in this section and, therefore, is not addressed. The Commission nevertheless notes that there are requirements in this rulemaking that address licensee actions that are required to minimize the potential consequences of an aircraft impact on a nuclear power plant. As noted previously, those requirements are now located in § 50.54(hh) as conditions of license.

Section 73.55(a), Introduction. The proposed § 73.55(a) would have required each licensee to submit, in their entirety, a revised physical security plan, training and qualification plan, and safeguards contingency plan for NRC review and approval within 180 days after the effective date of the final rule. The Commission received several comments stating that 180 days is not sufficient time to review and understand the modifications that may be required for compliance with the amended rule and to revise and submit amended security plans. In response to the comments, the Commission determined that, with the exception of the cyber security plan required by the new § 73.54, the majority of plan changes needed for compliance with the amended requirements of this section are likely to be minimal and are not anticipated to decrease the effectiveness of any particular licensee's current security plan. Because the current NRC-approved security plans already address the Commission's orders and pre-existing 10 CFR requirements, the greatest impact of this final rule will be focused primarily on those changes to plans and procedures needed to satisfy the requirements that are identified as ''new.'' The rule requires that by March 31, 2010, each currently operating reactor licensee must evaluate, on a site-specific basis, what security plan changes are needed to comply with the amended requirements of the rule. Those changes must be incorporated

into their security plans, as necessary, by March 31, 2010. In doing so, licensees are expected to follow the appropriate change processes described currently in §§ 50.54(p), 50.90, or 73.5. The Commission acknowledges that based on site-specific conditions, a limited number of plan changes may require Commission review and approval before implementation and must be made through a license amendment pursuant to 10 CFR § 50.90 or a request for an exemption per 10 CFR 73.5.

The Commission deleted the proposed requirements in § 73.55(a)(2) and (a)(3) for consistency with the determination that revised plans need not be submitted to the Commission for review and approval.

The Commission added a requirement in § 73.55(a)(2) that licensees must identify, describe, and account for site-specific conditions that affect the licensee's ability to satisfy the requirements of this section in the NRC-approved security plans. This requirement is added for consistency with revisions made to § 73.55(b)(4) which requires each licensee to conduct a site-specific analysis to identify such conditions.

The proposed § 73.55(a)(4) is renumbered in the final rule as § 73.55(a)(3) with minor revision to delete reference to Commission orders. One commenter asked the NRC to clarify its position with respect to the ''legally-controlling document'' once it approves a licensee security plan. Once a licensee has an approved security plan, both the licensee's security plan and the Commission's regulations are legally controlling. Regulations are legally controlling to the extent that they set forth the regulatory framework and general performance objectives of a licensee's security plan. The NRC-approved security plan, in contrast, describes a licensee's method of complying with those regulations including exemptions and approved alternatives. However, that the NRC specifically approved a licensee's security plan does not relieve the licensee from compliance with regulations.

To the extent that there are differences in a licensee's security plan and the regulatory requirements, the Commission expects that those differences would be specifically approved by the NRC, either in the form of an NRC-granted exemption, or an NRC-approved ''alternative measure'' as set forth in § 73.55(r). The NRC recognizes that generic regulations cannot always account for site-specific conditions. Some degree of regulatory flexibility is necessary to ensure that each licensee is capable of meeting the general performance objective of § 73.55(b)(1) to provide ''high assurance'' of public health and safety and common defense and security despite site specific conditions or situations that may interfere with or prevent the effective implementation of a given NRC requirement. Therefore, these regulations provide several mechanisms through which the NRC may approve a licensee's plan to implement alternative measures or exempt a licensee from compliance with any one or more NRC requirements, provided the licensee documents and submits sufficient justification. Once those exemptions or alternative measures are specifically reviewed and approved by the NRC and are incorporated into the licensee's security plan, they then become legally binding through the licensee's security plan required as a condition of its license.

In the rare situation in which a licensee's security plan conflicts with NRC regulations and the NRC has not reviewed and approved the conflicting measures, the Commission expects that the staff would work with the licensee to ensure that the security plan is revised to comply with the regulatory requirement. That the security plan may have been approved with a deficiency does not excuse the licensee from compliance with the Commission's regulations.

Section 73.55(a)(4) establishes when an applicant's physical protection program must be implemented. The Commission concluded that the receipt of special nuclear material (SNM) in the form of fuel assemblies onsite, *i.e.* in the licensee's protected area, is the event that subjects a licensee to the requirements of § 73.55. It is the responsibility of the applicant/licensee to implement an effective physical protection program before SNM in the form of fuel assemblies is received in the protected area.

The Commission has added a new requirement in § 73.55(a)(5) to address the Tennessee Valley Authority (TVA) facility at Watts Bar. TVA is in possession of a current construction permit for Watts Bar Nuclear Plant, Unit 2, and is treated as a current licensee for purposes of satisfying the requirements of this rule. These requirements reflect Commission support of a licensing review approach for Watts Bar Nuclear Plant, Unit 2, that employs the current licensing basis for Unit 1 as the reference basis for review and licensing of Unit 2, as stated in a July 25, 2007, Staff Requirements Memorandum (ML072060688).

The Commission has revised the final rule § 73.55(a)(6) to clarify that certain requirements in this section apply only to applicants for an operating license under the provisions of 10 CFR part 50 of this chapter, or holders of a combined license under the provisions of 10 CFR part 52 of this chapter. Specifically, the requirements to design, construct, and equip both the CAS and SAS to the same standards are addressed in the final rule as § 73.55(i)(4)(iii). The Commission views this as a prudent safety enhancement for future nuclear power plants but not an enhancement that is necessary for the adequate protection of pre-existing operating reactors. Unless otherwise specifically approved by the Commission, pre-existing power reactor licensees choosing to construct a new reactor inside an existing protected area are subject to the new CAS/SAS requirements in § 73.55(i)(4)(iii).

Section 73.55(b), General Performance Objective and Requirements. The Commission received several comments requesting that the term ''radiological sabotage'' be used in lieu of the phrase ''significant core damage'' and ''spent fuel sabotage'' because the term ''radiological sabotage'' is defined in § 73.2. The Commission agrees in part and has revised the final rule in § 73.55(b)(2) to clearly retain, without modification, the pre-existing requirement for licensees to provide protection against the design basis threat of radiological sabotage and has revised § 73.55(b)(3) to clarify that the design of the physical protection program must ensure the capability to prevent ''significant core damage'' and ''spent fuel sabotage.'' It was not the Commission's intent in the proposed rule to delete the requirement for protection against radiological sabotage but rather to establish the prevention of significant core damage and spent fuel sabotage as the criteria to measure a licensee's performance to protect against ''radiological sabotage.'' The final rule has been revised to reflect this intent. The achievement of ''significant core damage'' and ''spent fuel sabotage'' can be measured by the licensee through accepted engineering standards, and the use of these terms provides measurable performance criteria that are essential to understanding the definition of radiological sabotage. Additionally, the Commission believes that continued use of the terms ''significant core damage'' and ''spent fuel sabotage'' to enhance the understanding of radiological sabotage is warranted because these terms are now well established and have been used consistently by the

Commission and industry relative to force-on-force testing before and after September 11, 2001.

The Commission received several comments regarding the proposed rule § 73.55(b)(2), the introduction of six performance-criteria: detect, assess, intercept, challenge, delay, and neutralize. Upon consideration, the Commission concluded that the four terms, ''detect, assess, interdict, and neutralize,'' more concisely represent the intended performance-criteria and this change has been made throughout the final rule. The terms ''intercept, challenge, and delay'' are subsumed in the term ''interdict.''

The Commission received a comment that the proposed rule § 73.55(b)(3) delineation of requirements for the design of the physical protection program should be clarified. The Commission agrees and § 73.55(b)(3) has been revised to clarify Commission expectations. The requirement for the protection of personnel, equipment, and systems against the design basis threat vehicle bomb assault is addressed in the § 73.55(e)(10)(i)(A). The requirement for protection against a single act, within the capabilities of the design basis threat of radiological sabotage, is based upon the pre-existing § 73.55(e) and is addressed in the final rule § 73.55(i)(4)(i). Section 73.55(i)(4)(i) requires licensees to protect either the CAS or SAS against a single act by ensuring the survival of at least one alarm station in order to maintain the ability to perform required functions.

Section 73.55(b)(4) is renumbered in the final rule as § 73.55(b)(3)(ii). The Commission received a comment that the scope of the proposed § 73.55(b)(4) regarding the term ''defense-in-depth'' was not clearly understood. Section 73.55(b)(3)(ii) is revised to clarify that defense-in-depth is accomplished through the integration of systems, technologies, programs, equipment, supporting processes, and implementing procedures as needed to ensure the overall effectiveness of the physical protection program.

Section 73.55(b)(4) is added to specifically require that each licensee perform a site-specific analysis for the purpose of identifying and analyzing site-specific conditions that affect the design of the onsite physical protection program. Commission regulations are generic and cannot in all instances account for site-specific conditions, and therefore, it is the licensee's responsibility to identify and account for site-specific conditions relative to meeting Commission requirements, subject to NRC inspection.

Section 73.55(b)(8) is added to require the development and maintenance of a cyber security program that meets the performance objectives of the new § 73.54. Section 73.54 incorporates the proposed § 73.55(m) in its entirety, and the associated public comments were addressed previously within the new § 73.54.

Section 73.55(b)(10) is revised to clarify the Commission's expectation that each licensee will enter physical protection program findings and deficiencies into the site corrective action program so that they can be tracked, trended, corrected, and prevented from recurring.

Section 73.55(b)(11) is repeated from the pre-existing appendix C to part 73, ''Introduction,'' to delineate the Commission's expectation that security plans and implementing procedures must be complementary to other site plans and procedures.

Section 73.55(c), Security Plans. The Commission received several comments stating that the requirements in § 73.55(c) are redundant to the requirements in § 50.34(c) and (d). The Commission disagrees. While these requirements appear to be redundant, conforming changes have been made to § 50.34(c) and (e) to include cyber security plans and training and qualification plans. In addition, § 73.55 establishes a paragraph dedicated to security plans to consolidate the regulatory framework for each plan, describe the general content of each plan, and clarify the relationship between Commission regulations, NRC-approved security plans, and site-specific implementing procedures. The primary focus of the security plans is to describe how the licensee will satisfy Commission requirements including how site-specific conditions affect the measures needed at each site to ensure that the physical protection program is effective.

The Commission received a comment that the proposed § 73.55(c)(2) appeared to require that all security plans be protected as Safeguards Information (SGI). The Commission disagrees with the comment. Licensees are required by § 73.55(c)(2) only to review the information contained in the security plans against the criteria contained in § 73.21 to determine the existence of SGI and to protect that information appropriately.

The Commission has added a conforming requirement to §§ 73.55(c)(6) and 50.34(c) for licensees to provide a cyber security plan in accordance with the new § 73.54 for Commission review and approval.

The proposed §§ 73.55(c)(3)(ii), 73.55(c)(4)(ii), and 73.55(c)(5)(ii) are deleted from the final rule. The Commission's expectation is that each licensee will address Commission requirements in their approved plans and implementing procedures and, where the Commission requires a specific detail to be included in the plans, that requirement is stated in applicable paragraphs of the final rule.

Section 73.55(d), Security Organization. The Commission received several comments that the proposed requirement of § 73.55(d)(1) to provide ''early detection, assessment, and response to unauthorized activities within any area of the facility'' was too broad and could result in unnecessary regulatory burden. The Commission agrees with the comment and has deleted these terms and revised the language to clarify the primary responsibility of the security organization. The intent is that the security organization will focus upon the effective implementation of the physical protection program which in turn is designed to protect the facility from the design basis threat of radiological sabotage with high assurance.

The Commission received a comment that proposed § 73.55(d)(3) was not clearly understood as it appeared this requirement may pertain to any individual within the security organization. The Commission agrees, and the final rule text in § 73.55(d)(3) is revised to clarify that individuals assigned to perform physical protection and/or contingency response duties must be trained, equipped, and qualified in accordance with appendix B to part 73 to perform those assigned duties and responsibilities whether that individual is a member of the security organization or not. This clarification is made to account for those instances where the licensee uses facility personnel other than members of the security organization to perform duties within the physical protection program, such as a vehicle escort or warehouse personnel inspecting/searching deliveries. The rule requires that facility personnel who are not members of the security organization will be trained and qualified for the specific physical protection duties that they are assigned, which includes possessing the knowledge, skills, abilities, and the minimum physical qualifications such as sight, hearing, and the general health needed to perform the assigned duties effectively.

The proposed § 73.55(d)(4) is deleted from the final rule because the reference to meeting the requirements of § 73.56

(Access authorization program) is redundant.

The Commission received several comments indicating that the requirements in the proposed § 73.55(d)(5) pertaining to contracted security forces were redundant to other requirements addressed in the proposed rule. The Commission agrees. These requirements were retained from pre-existing requirements for the licensee to explicitly include these requirements as written statements in contracts between the licensee and a contract security force. Upon review, the Commission has determined that specifying these requirements in written contracts is unnecessary. The enforceability of NRC regulatory requirements is not dependent on whether they are implemented by the licensee or by a licensee contractor; therefore, specifically requiring the contract between these parties to contain these requirements is unnecessary. The Commission has, however, retained the requirement in the final rule § 73.55(q)(3), ''Records,'' (formally described in proposed § 73.55(d)(5)) that a copy of the contract be retained by the licensee. Additionally, the requirement in the proposed § 73.55(d)(5)(vi) that ''any license for possession and ownership of enhanced weapons will reside with the licensee'' has been deleted from this section. The Commission intends, however, that this requirement will be reflected in its regulations codifying requirements related to the use of enhanced weapons. The Commission's plan for that rulemaking was stated previously in this document. The remaining proposed requirements of § 73.55(d)(5) are deleted from this paragraph and are retained in other paragraphs of the final rule.

Section 73.55(e), Physical Barriers. The Commission received several comments that the proposed § 73.55(e) would result in unnecessary regulatory burden by expanding protected area physical barrier requirements into the owner controlled area (OCA). The Commission agrees in part and § 73.55(e) is revised to clarify the generic and specific requirements for the design, construction, placement, and function of each physical barrier. Section 73.55(e)(6) specifically addresses requirements for physical barriers in the OCA. Physical barriers can be used to fulfill many functions within the physical protection program, and therefore, each physical barrier must be designed and constructed to serve its predetermined function within the physical protection program. Consistent with § 73.55(b) for design of the physical protection program, the rule requires that each licensee will analyze site-specific conditions to determine the specific use, type, function, construction, and placement of physical barriers needed for the implementation of the physical protection program.

The Commission received comments on the proposed § 73.55(e)(3)(i), which would have required the delineation of the boundaries of areas for which the physical barrier provides protection, requesting that this provision be deleted because it lacked performance criteria. The Commission agrees, and the requirement is deleted from the final rule because it is more appropriate to be specified in regulatory guidance.

The proposed § 73.55(e)(3)(ii) is renumbered in the final rule as § 73.55(e)(3)(i) and is broken into subparagraphs § 73.55(e)(3)(i)(A) through (C). The Commission received a comment to clarify the proposed rule statements of consideration pertaining to the performance criteria for physical barriers. The Commission agrees in part. The pre-existing § 73.55(c)(8) introduced design goals relative to the use of vehicle barriers but did not address other physical barriers. The statements of consideration in the proposed rule attempted to incorporate other physical barriers and explain that the generic performance-criteria for physical barriers are not limited to vehicle barriers. The criterion for physical barriers is that *''each barrier be designed to satisfy the function it is intended to perform.''* The Commission agrees with the comment stating that the performance of all three functions (*i.e.*, visual deterrence, delay, and support access control measures) is not always required of each barrier, and the final rule addresses the barrier design requirements generically in § 73.55(e)(3)(i)(A) through (C).

The Commission received several comments requesting clarification of the proposed rule § 73.55(e)(4) for physical protection measures in the OCA. The proposed § 73.55(e) attempted to establish a generic requirement for the design, construction, placement, and function of physical barriers based on a site specific analysis. This generic requirement was misunderstood to mean that PA barriers were now required in the OCA. As such, the Commission revised the proposed § 73.55(e) and (e)(6) to clarify the scope and intent of this requirement. Consistent with the final rule § 73.55(b)(4), it is the responsibility of each licensee to identify, analyze, and account for site-specific conditions in the design and implementation of its physical protection program. Section 73.55(e)(6) is revised to clarify that the application of physical barriers in the OCA is determined by each licensee through site-specific analysis and must satisfy the physical protection program design requirements of § 73.55(b). The rule requires that the licensee will design and construct appropriate barriers in those areas to meet the identified site-specific need.

The Commission received comments requesting clarification of the term ''unobstructed observation'' as used in § 73.55(e)(5)(i)(A). The Commission agrees that this term can be misunderstood, and therefore, § 73.55(e)(7)(i)(A) is revised to delete the term ''unobstructed.'' This term was used to emphasize that a clear field of observation be provided in the isolation zone. However, the Commission's expectation is not the complete elimination of obstruction but that the licensee implement measures needed to negate the effects of any obstructions such as the relocation of non-permanent objects or the strategic placement of cameras to enable observation around an obstruction.

The Commission received several comments to clarify the proposed § 73.55(e)(5)(ii) pertaining to the performance of isolation zone assessment equipment and agrees that clarification is necessary. The proposed § 73.55(e)(5)(ii) is renumbered in the final rule as § 73.55(e)(7)(i)(C) and provides a performance-based description for specific isolation zone assessment equipment. The Commission has concluded that the requirement for this equipment is consistent with current licensee practices, therefore, it is an appropriate update for this final rule.

The proposed § 73.55(e)(5)(iii) is renumbered in the final rule as § 73.55(e)(7)(ii). The Commission received a comment that this requirement would preclude the use of areas inside the protected area as equipment lay-down/staging areas. The Commission agrees in part. The final rule does not preclude the use of lay-down areas/staging areas. However, this requirement does explicitly preclude such activities where the action constitutes an obstruction that prevents observation on either side of the protected area perimeter. This rule requires the licensee to take appropriate actions to negate any adverse effects that lay-down/staging areas may have to prevent observation on either side of the protected area perimeter.

The Commission received several comments to clarify the proposed requirement in § 73.55(e)(6)(i) to secure penetrations through the protected area barrier. The Commission agrees that

clarification is necessary. The proposed requirement is separated and renumbered as § 73.55(e)(8)(ii). Section 73.55(e)(8)(ii) is revised to clarify that penetrations must be secured and monitored to prevent exploitation. Where the size of an opening in any barrier is large enough to be exploited or otherwise defeat the intended function of that barrier, then such openings must be secured and monitored to prevent or detect attempted or actual exploitation.

The proposed § 73.55(e)(6)(v) is renumbered to § 73.55(e)(5). The Commission received several comments to clarify the term ''bullet-resisting.'' The Commission agrees in part that additional clarification is needed but does not believe that such clarification is necessary in the rule text. The Commission has determined that it is not appropriate to publicly reference site specific bullet-resisting standards in the rule because such specificity may lead to the identification of specific vulnerabilities. Specific bullet resisting standards that meet the requirements in § 73.55(e)(5) are described in regulatory guidance and would be further reflected in a licensee's NRC-approved security plans. The Commission acknowledges, however, that in addition to manufactured bullet-resisting materials, a level of bullet-resistance that meets the intent of this regulation might be provided by distances and angles combined with standard construction materials and designs.

The proposed § 73.55(e)(6)(vi) is renumbered in the final rule as § 73.55(e)(8)(v). The Commission received several comments requesting that the NRC delete the word ''all'' with respect to its modification of the term ''exterior areas.'' The Commission agrees that clarification is necessary. Section 73.55(e)(8)(v) retains and updates the pre-existing requirement in § 73.55(c)(4) to periodically check *all* exterior areas within the protected area but has revised the requirement to clarify that some areas may be excepted from this requirement where safety concerns prevent the licensee from physically checking that area. The Commission's expectation is that licensee procedures will account for these areas by another means that ensures the safety of personnel while assuring the integrity of the area and the requirement is met.

Section § 73.55(e)(9)(v)(D) is added to include the SAS among the types of areas and equipment that must be afforded protection as a vital area/equipment the same as the CAS, only for *applicants* for new reactor licenses. Current licensees are not subject to this requirement as they have been found to provide adequate protection within current configurations. The requirement to treat SAS as a vital area is an enhancement that provides equivalency and redundancy for the alarm stations.

The Commission received a comment that proposed § 73.55(e)(7)(iii), renumbered to the final rule as § 73.55(e)(9)(vi)(A), expands the requirement for secondary power systems from just ''alarm annunciator equipment'' to all ''intrusion detection and assessment equipment'' and that this is a significant expansion that is not explained or supported by NRC force-on-force inspections. The Commission agrees that the scope of the proposed paragraph appears to have been expanded to require all intrusion detection and assessment equipment employed by the licensee to be connected to a secondary power supply and for all secondary power supplies to be treated as vital areas. Section 73.55(e)(9)(vi)(A) is revised to retain the pre-existing § 73.55(e)(1) to locate the secondary power supply for alarm annunciation equipment in a vital area. The Commission has added § 73.55(i)(3)(vii) to address uninterruptible power supplies for intrusion detection and assessment equipment at the protected area perimeter. The uninterruptible power supply discussed in § 73.55(i)(3)(vii) is not required to be located in a vital area because it is a short-term measure utilized to provide service until secondary power sources are operable and the Commission recognizes that uninterruptible power supplies are physically dispersed across the site. Making each uninterruptable power supply a vital area is considered a safety enhancement and implementation would be an unnecessary regulatory burden on the licensee based on the level of protection that would be provided versus the cost.

The Commission has determined that the proposed § 73.55(e)(7)(iv) was redundant to § 73.58 and has deleted this requirement from the final rule to avoid unintended duplication and impact beyond current requirements.

The Commission received multiple comments stating that the proposed § 73.55(e)(8) significantly expands the requirements for controlling vehicles inside the OCA. The pre-existing § 73.55(c)(7) requires the licensee to provide vehicle control measures, including vehicle barrier systems, to protect against use of a land vehicle as a means of transportation to gain unauthorized proximity to vital areas. The Commission's intent is not to expand the requirements for controlling vehicles in the OCA and has revised and consolidated the proposed rule § 73.55(e)(8) to clarify scope and intent of this requirement. The proposed § 73.55(e)(8) is renumbered in the final rule as § 73.55(e)(10) and provides general vehicle control requirements. In addition, the rule requires that licensees implement security measures to prevent unauthorized access to the protected area by rail.

The Commission received several comments on proposed § 73.55(e)(8)(ii) that to control vehicle approach routes is broader in scope than protecting against vehicle bomb attacks and preventing vehicle use as a means of adversary transportation as was stated in the proposed rule. In lieu of a specific requirement to control vehicle approach routes, § 73.55(e)(10) provides general vehicle control requirements. The Commission acknowledges that the control of vehicle approach routes is generally accomplished through the establishment of vehicle control measures such as a vehicle barrier system designed for protection against vehicle bomb assaults or a protected area barrier that prevents unauthorized personnel from gaining proximity to protected areas or vital areas.

The proposed § 73.55(e)(8)(iii) is modified and renumbered as § 73.55(e)(10)(i)(A). The Commission received several comments to clarify protection requirements against land vehicle bombs and the protection of personnel, systems, and equipment. The Commission agrees, and § 73.55(e)(10)(i)(A) is revised to clarify the protection of personnel, systems, and equipment relative to land vehicle bomb assaults rather than the design basis threat in its entirety. This requirement does not include an obligation to protect all plant personnel from such an attack but rather focuses on the protection of those personnel whose job functions make them necessary to prevent significant core damage and spent fuel sabotage through the implementation of the protective strategy.

The proposed § 73.55(e)(8)(v) is renumbered as § 73.55(e)(10)(i)(B). The Commission received a comment to clarify whether loss of power testing is subject to this requirement. The Commission concluded that specific testing criteria and periodicity are site-specific and must be addressed in procedures. The rule requires that each licensee will develop and implement procedures that will ensure that active vehicle barriers can be electronically, manually, or mechanically placed in the denial position to perform their intended function for protection against

the vehicle bomb in the event of a power failure.

The proposed § 73.55(e)(8)(vi) is renumbered as § 73.55(e)(10)(i)(C). The Commission received several comments that if the proposed § 73.55(e)(8)(vi) is intended to address tampering then the term ''tampering'' should be used. The Commission agrees and § 73.55(e)(10)(i)(C) is revised to remove the term ''integrity,'' and clarified to require that the licensee implement measures to identify indications of tampering with vehicle barriers and barrier systems and to ensure that barriers are not degraded. The rule requires that the licensee will implement appropriate surveillance and observation measures for vehicle barriers, barrier systems, and railway barriers.

Section 73.55(e)(10)(i)(D) was specifically added, based on a comment, to address vehicle control measures for sites that have rail access to the protected area.

The proposed § 73.55(e)(9) is renumbered as § 73.55(e)(10)(ii). Section 73.55(e)(10)(ii)(B) is revised to require licensees to provide periodic surveillance and observation of waterway approaches and adjacent areas. Section 73.55(e)(10)(ii) is also revised to delete reference to early detection, assessment, and response, consistent with revisions made to the proposed § 73.55(d)(1).

The proposed § 73.55(e)(10) is deleted. The Commission received several comments that this provision is inconsistent with the existing regulations and associated regulatory guidance for openings in the protected or vital areas. The Commission agrees and furthermore determined that ''Unattended Openings'' are adequately addressed in regulatory guidance and, therefore, need only be addressed through a more generic requirement within this rulemaking. Section 73.55(e)(8)(ii) and § 73.55(i)(5)(iii) generically address penetrations through the PA barrier and unattended openings that intersect a security boundary. The rule requires that such penetrations and unattended openings will be secured and monitored consistent with the intended function of the barrier to ensure the penetration or unattended opening can not be exploited.

Section 73.55(f), Target Sets. The Commission received multiple comments that the NRC should require licensees to identify certain bridges as ''targets.'' The commenter stated in part, that certain bridges, if lost, would adversely affect or even negate the offsite responders' capabilities and because numerous emergency scenarios rely upon offsite responder's capability to cross these bridges to gain access to the facility during an emergency. The Commission disagrees. The requirements of this section focus on the physical protection of target set equipment against the design basis threat of radiological sabotage. Target sets include, in part, the combination of equipment or operator actions which, if all are prevented from performing their intended safety function or prevented from being accomplished, would likely result in significant core damage barring extraordinary action by plant operators. Clearly, geographical features such as bridges or other ingress or egress routes are not included in this concept of target set equipment. Further, a licensee's ability to defend against the design basis threat of radiological sabotage is not dependent on the availability of offsite responders.

The Commission received a comment that proposed § 73.55(f)(1) which would have required licensees to document their target set development process in ''site procedures'' is not appropriate because other site documents (*e.g.*, engineering calculations) are used to document this process. The Commission agrees and final rule § 73.55(f)(1) is revised to generically require that this information be documented, rather than written into site procedures, to provide the necessary regulatory flexibility. The word ''maintain'' is added to ensure availability of this information upon request by an authorized representative of the NRC. The specific information needed to satisfy this requirement may be contained in engineering records or other documents.

The Commission received two comments pertaining to the proposed requirement § 73.55(f)(2) which stated that the requirement for licensees to consider the effects of cyber attacks on target sets is not appropriate. The Commission disagrees, concluding that § 73.55(f)(2) is appropriate and consistent with Commission requirements for protection against the design basis threat of radiological sabotage stated in § 73.1 and the cyber security requirements stated in the new § 73.54.

The Commission received a comment that the proposed § 73.55(f)(3) requirement to list target set equipment or elements that are not within a protected or vital area in the approved security plan is an unnecessary regulatory burden that could require plan changes whenever site-conditions change. The Commission agrees that targets sets must be adjusted consistent with changes to site-specific conditions, and therefore, § 73.55(f)(3) is revised to require that target set elements not contained in a protected or vital area be identified through the documentation required in § 73.55(f)(1) rather than security plans to ensure that they can be appropriately updated and modified to account for changes to site-specific conditions without prior Commission approval.

The Commission received comments that the proposed § 73.55(f)(4), which would have required implementation of a program to ensure that changes to the configuration of equipment that was identified as target set equipment in the licensee's security plan, was not appropriate due to the increased burden of oversight identified by the requirement. The Commission agrees in part. Section 73.55(f)(4) is revised to clarify the Commission's expectation that each licensee implement a process for the oversight of target set equipment, systems, and configurations using existing processes. This requirement ensures that changes made to the configuration of target set equipment and modes of operation are considered in the licensee's protective strategy. Reference to ''significant core damage and spent fuel sabotage'' is deleted to clarify that the focus of this requirement is on the licensee's process to identify changes made to such equipment that could potentially affect the implementation of the protective strategy. The licensee is expected to periodically review target sets for completeness and continued applicability consistent with the requirements in the final rule § 73.55(m), ''Security program reviews.'' The Commission has determined that such reviews are needed to ensure target sets are complete and accurate at all times.

Section 73.55(g), Access Controls. The Commission received a comment that the proposed § 73.55(g) does not close a dangerous loophole in current search requirements for law enforcement personnel and security officers which allows bona fide Federal, State, and local law enforcement personnel on official duty and licensee security personnel who have exited the protected area (PA) to reenter the PA without being searched for firearms. The commenter argued that such exceptions could provide insiders or corrupt law enforcement personnel collaborating with adversaries with significant opportunities to introduce contraband, silencers, ammunition, or other unauthorized equipment that could be used in an attack. The commenter stated that this practice should be explicitly forbidden in the rules except under

extraordinary circumstances. The Commission disagrees with this comment. On-duty law enforcement personnel may be granted access by licensees when there is a need for such access and are escorted while inside the PA. With respect to licensee security personnel, they are searched for firearms, explosives, and incendiary devices upon reporting for duty and are under the observation of other security personnel who are subject to the licensee's continuous behavioral observation program when performing duties. Upon assuming their duties, armed security officers must continue to be subject to the search criteria for explosives and incendiary devices upon re-entry to the PA. Both law enforcement personnel and licensee armed security personnel have been determined, through rigorous background investigations, to be trustworthy and reliable before being issued a firearm as part of their assigned duties. The Commission concluded that this exception to the required search criteria is necessary and appropriate to avoid unnecessary regulatory burden associated with these operating conditions.

The proposed rule attempted to address all access controls equally without addressing specific implementing differences for access to the owner controlled area, PA, or vital areas (VA). The Commission received several comments to clarify these differences in access controls for each area regarding processing of materials, personnel, and vehicles. The Commission agrees and the final rule is revised to address access control requirements for each area. The Commission also revised § 73.55(g)(1)(ii), (A), (B), and (C) to clarify generic control measures for controlling vehicle access through a vehicle barrier. Section 73.55(g)(2) is revised to specifically address PA access controls, and § 73.55(g)(4) is revised to specifically address VA access controls.

The proposed § 73.55(g)(1)(iv) to monitor and ensure the integrity of the licensee's access control systems is deleted from the final rule because it is sufficiently addressed by §§ 73.55(n)(1)(i) and (g)(1)(i)(C). The rule requires that the licensee will ensure that all access controls are working as intended and have not been compromised such that a person, vehicle, or material is able to gain unauthorized access beyond a barrier.

The proposed § 73.55(g)(5) is renumbered as § 73.55(g)(3). The Commission received a comment that the proposed § 73.55(g)(3)(ii) would have relaxed the requirement for armed security escorts for all vehicles inside a nuclear power plant's PA or VAs, unless the vehicle was specifically designated for use in such areas. The commenter further stated that the provision provides no explanation for the proposed change to this requirement, particularly given that there appears to have been no change in the threat environment that might warrant this change in security.

The Commission disagrees that requirements for control of vehicles inside the PA are relaxed by this requirement. The pre-existing requirement § 73.55(d)(4) did not require an armed escort for all vehicles but rather required only that the escort be a member of the security organization who may have been an unarmed watchman. The requirement has been revised, however, to permit the use of non-security-organization personnel as escorts for vehicles except that armed security personnel must escort vehicles containing hazardous materials and unsearched bulk items. Vehicle escorts, however, must be trained in accordance with the licensee's training and qualification plan as required by § 73.55(g)(8)(iii).

The pre-existing requirement for licensees to designate certain vehicles for use inside the PA has been deleted from the final rule. The Commission concluded that simply designating a vehicle for use inside the PA is an unnecessary regulatory burden and, therefore, is not necessary. Section 73.55(g)(3)(iii) requires that vehicle use inside the PA must be limited to plant functions or emergencies and that keys must be removed or the vehicle otherwise disabled when not in use. All vehicles and personnel must be searched before entering the PA. Vehicles operated by individuals who are authorized unescorted access to the PA are not required to be escorted.

The proposed § 73.55(g)(4)(ii)(C), which would have required licensees to implement procedures during an emergency to ensure that the licensee's capability to prevent significant core damage and spent fuel sabotage was maintained, is deleted because it is sufficiently addressed by § 73.55(b)(3).

The proposed § 73.55(g)(4)(iii) is subsumed by §§ 73.55(g)(5)(ii) and 73.55(b)(11). These provisions require that consideration be given to how access to and egress from the site will be controlled during an emergency, which is a function assigned to the security organization consistent with site emergency procedures.

The Commission received comments that passwords are not access control devices and, therefore, are not appropriate for the requirements of the proposed § 73.55(g)(6). The Commission disagrees. The Commission has determined that in physical security, passwords are a form of access control device because they are used to control access to security computer or electronic systems and may be used to control access to secured areas. The rule requires that the licensee will control passwords/passcodes used for security computers, electronic systems, or secured areas.

Section 73.55(g)(7)(i)(F) is added to require the licensee to deny access (escorted or unescorted) to any individual for whom access is currently denied at another NRC-licensed nuclear power reactor facility.

The Commission received several comments that the requirements described in proposed § 73.55(g)(7)(ii) regarding the specific information to be included on photo-identification badges issued to non-employee personnel who require frequent or extended unescorted access to a facility are an unnecessary regulatory burden. The Commission agrees in part, and § 73.55(g)(7)(ii) is revised to retain only the requirement for badges to visually reflect that the individual is a non-employee and that no escort is required. The proposed §§ 73.55(g)(7)(ii)(B) through (D) are deleted. The Commission's expectation is for licensees to electronically record the individual's access level, period of unescorted access, and employer within security databases. The Commission concluded that current badge technology is predicated upon computerized access control methodologies that store much of this information electronically on badges or keycards and in associated databases. Therefore, the need to visually display such information on badges is unnecessary. The proposed § 73.55(g)(7)(ii)(E) requirement for the designation of assigned assembly areas on badges is also deleted as it is determined to be an unnecessary regulatory burden.

The Commission received a comment to clarify the proposed § 73.55(g)(8) relative to the training of personnel assigned to perform escort duties. The rule requires that all escorts will be trained to perform escort duties and that this training may be accomplished through existing processes such as the General Employee Training (personnel escort) and/or the security Training and Qualification Plan (vehicle escorts). This training requirement ensures that any individual assigned to escort duties understands their responsibilities and the activities the person(s) to be escorted are authorized to perform. For

those instances where the licensee uses facility personnel other than a member of the security organization to perform escort duties within the physical protection program, such as a vehicle escort, these individuals must be trained, equipped, and qualified in accordance with the security Training and Qualification Plan to perform this specific duty. The rule requires that facility personnel who are not members of the security organization will be trained and qualified for the specific physical protection duties that they are assigned which includes possessing the knowledge, skills, abilities, and the minimum physical qualifications such as sight, hearing, and their general health needed to perform the assigned duties effectively.

The Commission received another comment that the proposed § 73.55(g)(8) allows escorts to take multiple visitors with no background checks into PAs and VAs, but does not require that the escorts meet even minimal physical and visual capabilities. The commenter stated that, unlike the proposed new requirement in Part 73, appendix B, paragraph B.2.a(2) that unarmed members of the security organization meet specified physical capabilities, the proposed regulations in § 73.55(g)(8) would not prevent licensees from assigning blind, deaf, and mute persons as escorts. The commenter urged that the regulation define minimally acceptable physical attributes for escorts. The Commission disagrees with this comment. The final rule does not require personnel escorts to be subjected to medical qualifications to perform escort duties but does require escorts to meet the requirements of § 73.55(g)(8), which establishes training and qualification requirements for personnel escorts. Further, personnel escorts are required to be capable of performing the assigned duty and maintain communication with the security organization when performing escort duties to summon assistance if needed. The NRC has never imposed minimum physical qualifications on licensee personnel escorts and the commenter has supplied no basis to impose such requirements now.

Section § 73.55(g)(8)(i) through (v) updates pre-existing requirements consistent with Commission expectations and current licensee practices for performing escort duties. The Commission received several comments that the proposed § 73.55(g)(8)(ii), which would have required that individuals assigned escort duties be provided a means of ''timely communication,'' was without basis because current communications capabilities at facilities are sufficient for escorts to make notifications or requests for assistance. Therefore, the commenter asserted that the NRC should delete this provision from the final rule. The Commission disagrees. The rule requires that escorts be able to call for assistance when needed. The ''timely communication'' language in the final rule does not require a specific form of communication media. It is the responsibility of each licensee to determine the appropriate communication media for their site which may or may not include the use of hand-held radios, public address systems, intercoms, etc. The Commission has concluded that timely communication capability is an appropriate update to pre-existing requirements and current licensee practices. Therefore, the Commission retains this requirement in § 73.55(g)(8)(ii).

The Commission received several comments that the proposed § 73.55(g)(8)(iii) for continuous communication is a new requirement without basis. The Commission disagrees. Section 73.55(g)(8)(iii) is an appropriate update to the pre-existing requirement described in § 73.55(f)(1), which required security personnel to maintain *continuous* communication capability with the central and secondary alarm stations and the pre-existing § 73.55(d)(4) which required vehicles to be escorted by security personnel while inside the PA. Section 73.55(g)(3)(ii) relieves the licensee from the pre-existing § 73.55(d)(4) and allowed non-security personnel, who are trained and qualified in accordance with the security Training and Qualification Plan, to escort vehicles inside the PA. In providing this relief, the Commission concluded that it is prudent to ''retain'' the pre-existing § 73.55(f)(1) requirement for vehicle escorts to maintain a continuous communication capability that was otherwise present through the use of security personnel escorting vehicles. It is also important to note that § 73.55(g)(8)(iii) is revised to permit vehicle escorts to directly contact members of the security organization other than the CAS or SAS for assistance. The proposed requirement would have limited this communication to only the CAS or SAS.

The Commission received a comment that the proposed § 73.55(g)(8)(iv) phrase ''knowledgeable of those activities that are authorized to be performed within the areas'' is broad and impracticable and that escorts should only be responsible for observing obvious indications of inappropriate behavior. The Commission agrees in part and revised § 73.55(g)(8)(iv) to clarify that the level of knowledge required is general and that general knowledge of authorized activities is a fundamental requirement for an effective escort.

The Commission received comments that proposed § 73.55(g)(8)(v), which described minimum visitor to escort ratios in protected and vital areas, would not have provided sufficient protection against the possibility that visitors could attempt to commit or facilitate acts of radiological sabotage. The Commission disagrees that the requirements reflected in the proposed rule are not sufficient to ensure that visitor activities are adequately controlled, and they are, therefore, reflected in the final rule. The rule requires each licensee to implement visitor observation and control measures that are consistent with the physical protection program design requirements in § 73.55(b) including specific requirements for searches of personnel, escorting of personnel, and escort communications. The Commission has concluded that the visitor control measures required by this paragraph provide an appropriate level of protection and prescribing specific visitor-to-escort ratios is unnecessary. Visitor-to-escort ratios should be specific to each site and visitor based on site conditions and the rationale for the visit. Therefore, § 73.55(g)(8)(v) is revised to delete the proposed visitor-to-escort ratios (10 to 1 in the PA and 5 to 1 in VAs) as these ratios are addressed in regulatory guidance and required to be delineated in the licensee's NRC-approved security plans.

Section 73.55(h), Search Programs. The Commission received several comments that search requirements should be addressed according to facility area (*i.e.*, owner controlled area (OCA) and PA). The Commission agrees, and § 73.55(h) has been revised to address search requirements by area. This revision is necessary to clarify the differences of search requirements and implementation for owner controlled and protected areas.

The Commission received several comments to clarify the proposed § 73.55(h)(1) and (1)(i) regarding searches and that searches should be conducted at each physical barrier only for those items that must be excluded beyond the barrier. The Commission agrees that clarification is warranted and has combined and renumbered the proposed § 73.55(h)(1) and (h)(1)(i) as § 73.55(h)(1). Consistent with § 73.55(b)(4), each licensee must analyze their site-specific conditions to

determine what personnel, vehicles, and materials must be prevented from gaining access to specific areas of the facility and will search the personnel, vehicles, and materials to satisfy the design requirements of § 73.55(b).

The proposed § 73.55(h)(5) is renumbered as § 73.55(h)(2)(iii). Section 73.55(h)(2)(iii) is revised to specify implementing details for the conduct of vehicle searches within the OCA including to the number of personnel required and the duties to be performed by each. The search process applied in the OCA must be performed by two personnel at least one of which must be armed and positioned to observe the search to provide an immediate response if needed. The rule requirement for searches conducted at vehicle checkpoints within the OCA is that one individual will conduct the search function, a second armed individual will be physically located at the checkpoint to provide an immediate armed response if needed, and a third individual, in accordance with § 73.55 (h)(2)(v), will monitor the search function via video equipment at a location from which that individual can initiate an additional response.

The proposed § 73.55(h)(8) through (h)(8)(iii) are renumbered as § 73.55(h)(3)(v) through (h)(3)(viii). The Commission received a comment that Commission approval of exceptions to search requirements through licensee security plans is unreasonable and unnecessary. The Commission agrees in part, and § 73.55(h)(3)(v) is revised to clarify the rule requirement that a general description of the types of exceptions must be stated in the licensee security plans rather than a specific listing of individual exceptions which must be captured in procedures.

The proposed § 73.55(h)(8)(i) is renumbered as § 73.55(h)(3)(vii). The Commission received a comment that the requirement for an armed escort is not applicable in all cases. The Commission agrees in part and has revised § 73.55(h)(3)(vii). The rule requires that bulk items excepted from the search required for access into the PA will be escorted by an armed member of the security organization to ensure that unsearched bulk items are controlled until they can be offloaded and the absence of contraband can be verified to the extent practicable.

The proposed § 73.55(h)(1)(iii) is subsumed in the final rule in appendix B of part 73.

The proposed §§ 73.55(h)(2)(i) and 73.55(h)(2)(ii) regarding clearly identifying items during a search are subsumed as §§ 73.55(h)(2)(iv) and 73.55(h)(3)(i).

Section 73.55(i), Detection and Assessment Systems. Several requirements from proposed §§ 73.55(i)(7) and 73.55(i)(10) have been consolidated, revised, relocated, and/or deleted to eliminate redundancy and provide clarification for alarm annunciation and video assessment equipment in both alarm stations and have been designated as § 73.55(i)(2) and (3).

The proposed §§ 73.55(i)(4), 73.55(i)(4)(i), and 73.55(b)(3) are combined and renumbered as § 73.55(i)(4)(i). The Commission received a comment that the requirements set forth in the proposed § 73.55(i)(4) were significant high-impact requirements that exceed the existing requirements without basis and whose exact scope and impact could not be assessed with the current language. The Commission agrees that further clarification of the intent and scope of these requirements is necessary. In the final rule, the pre-existing requirement in § 73.55(e)(1) for protection of at least one alarm station against a single act is retained. Section 73.55(i)(4)(i) of the final rule clarifies the functions that must survive from a single act by requiring licensees to ensure the survivability of either alarm station to maintain the ability to perform the following four functions: Detection and assessment of alarms, initiation and coordination of an adequate response to alarms, summoning offsite assistance, and providing effective command and control. The proposed § 73.55(b)(3), which generally addressed the protection of personnel, systems, and equipment from a single act bounded by the design basis threat, is now reflected as § 73.55(e)(10)(i)(A), which generally describes licensee measures for protection against the design basis threat land vehicle bomb assault. A single act does not refer to the number of acts committed during a security contingency event; rather it pertains to any one act that alone could remove the licensee's capability to retain at least one alarm station and/or its functions as required. An example of a single act against which this regulation requires protection would be destruction of security equipment not specifically accounted for in the licensee protective strategy that is accessible from the PA perimeter and that its destruction would remove the capability to retain one alarm station and/or its required functions.

The proposed § 73.55(i)(4)(ii) is renumbered as § 73.55(i)(3)(vii). The Commission received several comments that proposed § 73.55(i)(4)(ii), which would have required uninterruptable backup power for all alarm station functions, would be a significant high-impact requirement that would exceed the existing requirements without a basis and that the exact scope and impact of the requirement cannot be assessed with the current language. The Commission agrees in part, and has revised § 73.55(i)(3)(vii) to clarify the scope of equipment to which this requirement applies. The Commission recognizes that because the transfer to secondary power is not an instantaneous event, the maintenance of continuous power to some equipment essential to the initiation of licensees' protective strategies may not be possible and could result in a period of degraded performance. In light of this potential vulnerability, the rule requires uninterrupted power supplies for detection and assessment equipment at the PA perimeter to ensure continued operability in the event of the loss of normal power during the transition between normal power and initiation of secondary power. The Commission determined that a licensee's capability to detect and assess a threat at the PA perimeter is an essential function for all sites, and as such, the equipment needed to satisfy the requirement in § 73.55(i)(1) must remain operable through an uninterruptible power supply. Based on each licensee's site specific considerations, detection and assessment equipment subject to this requirement may, for example, include alarm annunciators and sensors, lighting, closed circuit televisions, and video image recording necessary to provide detection and assessment at the protected area perimeter. However, under this rule, each license must identify which detection and assessment equipment it relies on to initiate its protective strategy. This requirement is based on the pre-existing § 73.55(e)(1), the evaluation of information gained through enhanced baseline inspections and force-on-force exercises.

Section 73.55(i)(4)(ii)(E) is added to ensure that licensees address events (*e.g.*, trespassing) that may not require a response in accordance with the protective strategy but may require the employment of elements within the licensee's force continuum and legal authority as permitted under applicable State law.

Section § 73.55(i)(4)(ii)(G) is added for consistency with § 73.55(i)(4)(ii)(F) to ensure that operators in both alarm stations are knowledgeable of the final disposition of all alarms, thus minimizing the possibility of assessment errors.

The proposed §§ 73.55(a)(6), 73.55(a)(6)(i), and 73.55(a)(6)(ii) are consolidated and re-numbered as § 73.55(i)(4)(iii). The Commission received several comments to clarify the applicability and scope of the proposed § 73.55(a)(6) and to relocate this requirement to § 73.55(i). The Commission agrees that additional clarity is needed but declines to relocate the applicability language in § 73.55(a)(6). Sections 73.55(a)(6) and 73.55(i)(4)(iii) specify that the requirement to construct, locate, protect, and equip both the central and secondary alarm stations (CAS and SAS) is applicable to only applicants for an operating license under the provision of part 50 or holders of a combined license under the provisions of part 52 that is issued after the effective date of this rule. The rule requires that both alarm stations for new reactors will be equal and redundant and will meet construction standards previously applied only to the CAS. Specifically, the Commission has deleted the pre-existing provision that otherwise permitted the SAS to be located offsite. Operating power reactors licensed before the effective date of this final rule and the Tennessee Valley Authority's Watts Bar Nuclear Plant need not renovate their existing alarm stations to meet this requirement. Applicants for a new operating license or combined license for a reactor that would be constructed inside an existing PA must construct both the CAS and SAS to the requirements of § 73.55 for CAS, unless otherwise exempted through established licensing processes.

The proposed §§ 73.55(i)(5), (i)(6), and (i)(7)(i) related to detection and assessment capabilities are deleted because they are subsumed as § 73.55(i)(1) which provides a general description of detection and assessment requirements.

The proposed §§ 73.55(i)(9)(ii), (ii)(A), and (ii)(B) are combined and renumbered as § 73.55(i)(5)(ii). The Commission received a comment that the NRC should delineate the requirements of each of the three areas (OCA, PA, and VA) in the final rule and clarify what is meant by the proposed ''integrity of physical barriers or other components.'' The Commission agrees and the final rule is revised to clarify that this requirement applies to the OCA. The term ''integrity'' is retained and is meant to refer to the ability of the barrier to perform its function and that it has not been tampered with.

The proposed § 73.55(i)(9)(iv) is renumbered as § 73.55(i)(5)(iii). The Commission received several comments to clarify the proposed § 73.55(i)(9)(iv), which concerned licensee obligations for observation of unattended unmonitored openings. The Commission agrees that clarification is needed, and § 73.55(i)(5)(iii) is revised to clarify that this requirement focuses on monitoring unattended openings, such as underground pathways, that can be exploited to circumvent the intent of a barrier or otherwise defeat its required function.

The proposed § 73.55(i)(9)(iii)(B) has been divided and renumbered as § 73.55(i)(5)(v) and (vi). The Commission received a request for clarification of the intent of the proposed requirement specific to ''random intervals.'' The Commission agrees and § 73.55(i)(5)(vi) is revised to clarify the scope of patrols relative to PAs, VAs, and target sets. The term ''random'' as used in the final rule is not intended to describe the periodicity of the patrols but to describe the manner in which the patrol is conducted to prevent predictability.

The proposed § 73.55(i)(9)(iii)(C) is renumbered as § 73.55(i)(5)(vii). The Commission received several comments to add the word ''obvious'' before the word tampering because security personnel generally do not possess the level of specific knowledge that might be necessary to detect the types of tampering that could have been included within the scope of the rule. These commenters noted that other licensee operations personnel who possess detailed engineering knowledge also provide observation of target set equipment and additional assurances that tampering would be identified. The Commission agrees and § 73.55(i)(5)(vii) is revised to include the term ''obvious'' consistent with the level of knowledge that security personnel possess regarding plant operations based on training that is provided to them.

The proposed §§ 73.55(i)(10) and (i)(10)(i) are deleted from the final rule because this proposed requirement to maintain video equipment in operable condition is redundant to §§ 73.55(b)(3) and 73.55(n)(1)(i).

The proposed § 73.55(i)(10)(iii) is deleted from the final rule. The NRC received a comment that ensuring personnel assigned to monitor video equipment are alert and able to perform their assigned duties is a licensee management responsibility. The Commission agrees. Fitness-for-duty, fatigue, and work-hour controls are covered in 10 CFR part 26.

The proposed § 73.55(i)(11)(i) is renumbered as § 73.55(i)(6). The Commission received several comments to clarify this lighting requirement. The Commission agrees and § 73.55(i)(6) is revised to clarify the lighting requirements and identify acceptable alternatives. The reference to the OCA is removed from this paragraph as it is duplicative to the reference in § 73.55(b).

The proposed § 73.55(i)(11)(ii) is renumbered as § 73.55(i)(6)(ii). The Commission received several comments to clarify the pre-existing requirement for 0.2-foot-candle illumination and the application of low-light technology. Consistent with the proposed rule, the current 0.2-foot-candle illumination requirement is explicitly retained as the minimum standard for illumination levels at nuclear power reactor facilities. However, § 73.55(i)(6)(ii) is revised to clarify and introduce the use of low-light technology to supplement the facility lighting scheme and to provide the flexibility needed for licensees to use low-light technology. The rule requires that licensees will ensure that lighting levels either meet the 0.2-foot-candle requirement, or employ low-light technology to ensure the protective strategy can be implemented effectively.

Section 73.55(j), Communication Requirements. The Commission has made no significant changes to § 73.55(j). The Commission received a comment that proposed § 73.55(j)(1), which would require the maintenance of continuous communication with offsite resources, was without a basis. The commenter argued that the ability to maintain such communication is beyond the ability of licensees. The Commission disagrees. This requirement is retained from the pre-existing § 73.55(f)(3) and remains unchanged. The rule requires that each licensee security organization maintains continuous communication with local law enforcement authorities and onsite personnel.

The Commission received a comment that proposed § 73.55(j)(4)(iii), regarding the licensee's communication system, is not appropriate for escorts. The Commission agrees and § 73.55(j) is revised to address the specific communication requirements of personnel or entities requiring communications and communication systems to be employed to meet the requirement. The rule requires that vehicle escorts are provided by the licensee with the appropriate means to call for assistance when needed. The final rule does not require a specific form of communication media, and therefore, it is the responsibility of each licensee to determine the appropriate communication media for their site which may or may not include the use of hand-held radios, public address systems, intercoms, etc.

The Commission received a comment that proposed § 73.55(j)(6), which would have required the licensee to identify and establish alternative communication methods for areas of its facility where communication could be interrupted or not maintained, was without a basis, and would be virtually impossible to implement given a power plant's reinforced concrete construction and trip sensitive equipment. The Commission disagrees and believes that the commenter misinterpreted the Commission's intent. A condition as described in the rule, if present at a site, must be identified and accounted for to satisfy the pre-existing § 73.55(f)(1) requirement for continuous communication. However, the Commission does not intend to require that such conditions be ''fixed'' but rather that the licensee compensate for this condition as needed and appropriate for their site-specific considerations.

Section 73.55(k), Response Requirements. The proposed §§ 73.55(k)(1)(ii) and (iii), regarding the training and qualification of armed responders and the availability of certain equipment, are deleted from the final rule. These requirements are sufficiently addressed in the final rule in appendix B to part 73 and appendix C to part 73 and, therefore, are redundant.

The proposed § 73.55(k)(1)(iv), regarding training for assigned weapons, is renumbered as § 73.55(k)(2). The Commission determined that the proposed § 73.55(k)(3)(iv) is redundant to this requirement and has revised § 73.55(k)(2) to clarify performance criteria.

The proposed requirement in § 73.55(k)(1)(v) regarding weapons training and qualification of armed responders is deleted from the final rule because it is redundant to the requirements set forth in appendix B to part 73.

The proposed § 73.55(k)(3) is renumbered as § 73.55(k)(4). The final rule § 73.55(k)(4) is clarified to delineate the duties of armed responders and armed security officers. Section 73.55(k)(5) is added to retain the pre-existing requirement, described in former § 73.55(h)(3), for the minimum number of armed responders required to be immediately available at the facility to fulfill response requirements. The rule requires that each licensee will determine the specific minimum number of armed responders needed to protect their facility and that under no circumstances will that minimum number be less than 10 inside the PA and available at all times.

The proposed § 73.55(k)(3)(iii) and (iv) are deleted from the final rule. The Commission concluded that these proposed requirements are redundant to the final rule appendix B to part 73 and § 73.55(n)(1)(i), respectively.

The proposed § 73.55(k)(6) regarding licensee personnel being trained to understand their roles during security incidents, is deleted from the final rule. The Commission has determined that this requirement is more appropriate for site procedures and has deleted it from the final rule.

The proposed § 73.55(k)(7)(iv) is renumbered as § 73.55(k)(8)(iii). The Commission received a comment that it does not have a basis to require licensee notification of offsite agencies other than local law enforcement upon receipt of an alarm or other threat notification. The Commission generally agrees that the requirement is not necessary. Section 73.55(k)(8)(iii) is revised to specify that licensees must notify local law enforcement only in accordance with their site procedures. However, as noted below, some licensees have established liaison with non-local law enforcement agencies including State or Federal. To the extent that these arrangements are noted in those licensees' site procedures, the rule would require their notification.

The proposed § 73.55(k)(8) is renumbered as § 73.55(k)(9). The Commission received a comment that it does not have a basis to require licensees to obtain liaison agreements with agencies other than local law enforcement. The Commission disagrees with this comment but has clarified the rule. In some instances, licensees have arrangements with agencies not considered ''local law enforcement'' such as Federal or State law enforcement agencies. It is, therefore, an appropriate update to the regulatory framework to include the possibility of State and Federal law enforcement agencies as well as local law enforcement to account for sites whose local law enforcement are State or Federal agencies. However, such agreements are not required by the rule. Further, the Commission acknowledges that in some cases a local, State, or Federal law enforcement agency cannot or will not enter into a written agreement with a licensee, and in such cases the Commission's expectation is that the licensee will make a reasonable effort to pursue liaison with these agencies to the extent practicable and that this liaison is documented.

The proposed appendix C to part 73, section II, paragraph (k), ''Threat Warning System,'' paragraph (k)(1), (k)(2), and (k)(3) are moved and renumbered as § 73.55(k)(10), paragraph (k)(10)(i), and paragraph (k)(10)(ii). The Commission concluded that these requirements are better presented in the regulatory framework for the physical protection program. The rule requires that the licensee will pre-plan specific enhancements to their physical protection program to be taken upon notification by the NRC of a heightened threat environment.

Section 73.55(l), Facilities Using Mixed-Oxide (MOX) Fuel Assemblies Containing up to 20 Weight Percent Plutonium Dioxide (PuO_2). The Commission received a comment that through this proposed rulemaking, the NRC is ignoring the Atomic Safety and Licensing Board's (ASLB) decision in the Catawba case. The commenter stated that, in that case, the ASLB added security conditions to Duke Energy's proposed security plan at Catawba and that one of the ASLB's conditions is not in the proposed rule. The Commission disagrees with this assertion. In fact, the Commission specifically rejected the ASLB's imposition of additional license conditions for the use of MOX fuel and affirmed the staff's conclusion that the additional security measures provided by the licensee would provide reasonable assurance of the protection of public health and safety in light of the theft risk presented by the use of MOX fuel (*Duke Energy Corp.* (Catawba Nuclear Stations, Units 1 and 2), CLI–05–14, 61 NRC 359 (2005)). The Catawba license amendments were issued on March 3, 2005 (70 FR 11711; March 9, 2005). The requirements described in § 73.55(l) are consistent with the physical protection program enhancements that were applied to the Catawba facility. Section 73.55(l) is revised to clarify that those licensees choosing to use MOX fuel assemblies must implement additional measures designed to prevent theft or diversion of un-irradiated MOX fuel assemblies in addition to protecting the power reactor facility against the design basis threat of radiological sabotage.

The Commission received a comment that the NRC did not define MOX fuel in the proposed rule (with regard to concentration, weight, or any other physical property), and suggested that this is necessary. The Commission agrees, and § 73.55(l) is revised to specify the maximum percent weight of plutonium dioxide allowed within a MOX fuel assembly and that the use of MOX fuel assemblies with percent weights greater than 20 weight percent plutonium dioxide require unique and separate approval from the Commission. In such cases, licensees would be required to submit a license amendment

request, and the Commission would consider additional security measures as necessary. Section 73.55(l)(3)(v)(B) is also revised to clarify the number of physical barriers required for protection of un-irradiated MOX fuel assemblies. Physical protection of un-irradiated MOX fuel assemblies requires three physical barriers of which the water contained within the spent fuel pool is the third barrier.

Finally, the commenter disagreed with the fact that the proposed rule language did not make a distinction between the security applied to a small number of MOX lead test assemblies and the security applied to a large number of assemblies. The Commission disagrees that such a distinction is necessary in the rule. Because the Commission considers only one part of one assembly to be the goal quantity of a theft scenario and because theft of only a portion of the fuel in one assembly would be considered failure, no additional protection would be added by distinguishing between multiple additional assemblies. The physical protection program requirements specified in § 73.55(l) are appropriate for any quantity of unirradiated MOX fuel assemblies that are less than or equal to 20 weight percent plutonium dioxide and may be on-site at any time.

Section 73.55(m), Security Program Reviews. The proposed § 73.55(m) for ''Digital computer and communication systems and networks'' is relocated to a stand-alone section (10 CFR 73.54). The Commission has determined that these requirements are best addressed as a stand-alone section similar to the requirements for an access authorization program.

The proposed § 73.55(n) is renumbered as § 73.55(m) to account for the renumbering of the proposed § 73.55(m) as 10 CFR 73.54.

The proposed §§ 73.55(n)(1) and (n)(1)(ii) are combined and renumbered as § 73.55(m)(1). The Commission received a comment to clarify the periodicity of audits and reviews required by proposed § 73.55(n)(1). Section 73.55(m)(1) is revised to clarify periodicity. The rule requires that each licensee will review their physical protection program to determine if the programmatic requirements established are being implemented. The rule also requires that each licensee will review the physical protection program to determine if the physical protection program effectively meets Commission requirements. The licensee must ensure that all components or elements of the physical protection program are reviewed at intervals no less than every 24 months. However, the Commission has concluded that licensees must also review individual components or elements of the physical protection program no later than 12 months following a significant change to site-specific conditions, equipment, personnel, or other performance indicators.

The proposed §§ 73.55(n)(3) and (4) are deleted because these requirements are redundant to the requirement to review the physical protection program at intervals not to exceed 24 months.

The proposed § 73.55(n)(5) is deleted because it is redundant to the final rule Part 73, appendix B, Section VI, for the performance evaluation program.

The proposed § 73.55(n)(8) is deleted because the requirements for the site corrective action program as stated in § 73.55(b)(10) address all issues, not just findings from reviews, audits, etc. as stated in the proposed rule.

The proposed § 73.55(n)(9) is deleted because this provision does not apply to reviews and audits addressed herein and is limited to only the conduct of training program requirements addressed in part 73, appendix B, Section VI.

Section 73.55(n), Maintenance, Testing, and Calibration. The proposed § 73.55(o) is renumbered as § 73.55(n) to account for the renumbering of the proposed § 73.55(m) to a stand-alone section (10 CFR 73.54).

The proposed § 73.55(o)(1)(i) is renumbered as § 73.55(n)(1)(i). The Commission received a comment asking who determines the ''predetermined intervals'' in which testing and maintenance are required. The predetermined intervals for maintenance, calibration, and performance testing of equipment are specified by manufacturer specifications and the NRC. The Commission has concluded that specific, pre-determined intervals for operability testing are required to ensure that certain equipment is capable of performing its intended function.

Section 73.55(o), Compensatory Measures. The proposed § 73.55(p) is renumbered as § 73.55(o) to account for the renumbering of proposed § 73.55(m) for cyber security requirements to a stand-alone § 73.54.

Section 73.55(p), Suspension of Security Measures. The proposed § 73.55(q) is renumbered as § 73.55(p) to account for the renumbering of proposed § 73.55(m) for cyber security requirements to a stand-alone § 73.54.

The Commission received a comment that proposed § 73.55(q)(1)(ii) requires that a licensed senior operator approve the suspension of safeguards measures. The commenter suggested that approval from a licensed senior operator was excessive and that the rule should be revised to permit approval by the ''on shift operations manager.'' The Commission disagrees and finds that approval by a licensed senior operator is appropriate for all suspensions of security measures pursuant to § 73.55(p). The allowance for suspensions of security measures for severe weather conditions is based on the pre-existing §§ 50.54(x) and (y) which explicitly requires, at a minimum, approval by a licensed senior operator. Under this provision, the security supervisor recommends when security measures must be suspended; and, consistent with the pre-existing §§ 50.54(x) and (y), a licensed senior operator must, at minimum, approve that decision to ensure that other operational and safety concerns have been fully considered and that there will be no adverse affects or undue risk to the public health and safety as a result of the suspension. Refer to NRC Regulatory Issue Summary 2008–26 ''Clarified Requirements of Title 10 of the Code of Federal Regulations (10 CFR) Section 50.54(y) When Implementing 10 CFR Section 50.54(x) to Depart from a License Condition or Technical Specification,'' dated October 29, 2008 (ML080590124), for further discussion of the requirements associated with which licensee personnel may approve licensee departures from license conditions or technical specifications.

The proposed § 73.55(q)(4) is deleted because the requirement to report the suspension of safeguards measures is redundant to § 73.71 and is sufficiently addressed in § 73.55(p)(3).

Section 73.55(q), Records. The proposed § 73.55(r) is renumbered as § 73.55(q) to account for the renumber of proposed § 73.55(m) for cyber security requirements to a stand-alone section (10 CFR 73.54). The proposed § 73.55(d)(5) is renumbered as § 73.55(q)(3) to retain the requirement for retention of security force contracts as a record for the duration of the contract and retention of superseded portions for three years following changes to that contract.

Section 73.55(r), Alternative Measures. The proposed § 73.55(s) is deleted because it is redundant to § 73.58. The Commission has determined that safety/security interface is a stand-alone section, the applicability of which is adequately addressed in § 73.58 and need not be referenced in § 73.55 to ensure clarity or applicability.

The proposed § 73.55(t) is renumbered as § 73.55(r) to account for the renumbering of the proposed § 73.55(m) for cyber security requirements to a stand-alone section (10 CFR 73.54) and the deletion of proposed § 73.55(s) ''Safety/security interface.'' Section 73.55(r) represents the same set of requirements that were described in former § 73.55(a), which stated, in part, ''the Commission may authorize an applicant or licensee to provide measures for protection against radiological sabotage other than those required by this section * * *.'' That provision had been known as the ''alternative measures'' provision although that specific phrase did not appear in the rule text. The final rule codifies that phrase as it relates to this process, but the requirements of seeking and obtaining approval for an ''alternative measure'' essentially remains as it had been set forth in the existing rule.

F. Section 73.56, Personnel Access Authorization Requirements for Nuclear Power Plants

General Comments. Section 10 CFR 73.56, the Commission has revised the proposed rule text and associated statement of considerations to (1) address over 180 pages of the comments received on the proposed rule, (2) provide additional clarifications and specifications, and (3) correct errors. The following provides a brief explanation of the significant changes to the proposed rule and the Commission's responses to the comments.

The Commission received numerous comments on the proposed rule as a result of unclear descriptions or inconsistent use of the roles and responsibilities of licensees, applicants, and contractors or vendors and the phrases ''grant unescorted access'' and ''authorize unescorted access authorization.''

In response to the comments received and suggestions implicit in the comments received on various provisions in the proposed rule, the Commission improved the clarity and precision of the final rule by providing the following clarification in the statement of consideration for § 73.56(a). First, the Commission replaced the phrases ''unescorted access authorization'' and ''access authorization'' with the phrases ''unescorted access'' and/or ''unescorted access authorization'' to correct misuse and misinterpretation of the rule. Second, the Commission replaced the term ''grant'' associated with ''unescorted access authorization'' and ''access authorization'' with the terms ''grant'' and/or ''certify.'' Finally, the Commission made several revisions in order to provide clarification and/or specifications on the roles and responsibilities of licensees, applicants, and contractors or vendors.

Additionally, the Commission revised paragraphs (a)(4) and deleted (a)(5) in the final rule to define and to provide clarification and specification on the roles and responsibilities of licensees, applicants, and contractors or vendors. Throughout the final rule, the Commission revised the proposed rule text to reflect the above clarifications and specifications.

Throughout the proposed rule text, the Commission received comments that some of its statements in the proposed rule regarding the accessibilities and capabilities of the information-sharing mechanism that the industry is currently using to comply with the Commission's requirements were incorrect. Specifically, commenters noted that the information-sharing mechanism used by the industry does not contain records, but rather it contains data representative of the records that are accessed and controlled by licensees, applicants, and certain contractors or vendors. The Commission agrees with the received comments and revised the final rule to clarify that use of an information-sharing mechanism is not a requirement; rather it is the sharing of specific access authorization information with the other licensees subject to this section that is required in accordance with § 73.56(o)(6).

Section 73.56(a), Introduction. The Commission deleted proposed paragraphs (a)(2) and (a)(3) pertaining to the submission of access authorization program amendments for Commission approval and the continued implementation of the access authorization program under current requirements in the final rule as those requirements have been incorporated in § 73.56(a)(1).

Section 73.56(b), Individuals Subject to the Access Authorization Program. Commenters stated that proposed paragraph (b)(1)(ii) does not contain a necessary provision that allows for short-term escorted digital access and addresses access authorization requirements for an individual accessing emergency response components that include commercial facilities that are not subject to access authorization requirements. The Commission disagrees with the recommended rule requirements. The Commission finds that these comments are beyond the scope of this rule because this section specifically provides for requirements for unescorted access and unescorted access authorization for protected and vital areas of nuclear power plants and to these entities only. This section does not cover escorted digital access; however, cyber security requirements are covered in § 73.54. Therefore, the NRC did not make any revision to the rule text.

Section 73.56(c), General Performance Objective. The Commission received comments that the requirements set forth in proposed § 73.56(d)(3) regarding identity verification requirements, did not properly consider the North America Free Trade Agreement, which allows Canadian citizens performing certain services to enter the United States without either an alien registration or an I–94 Form. The commenters also stated that the proposed rule text incorrectly allowed contractors or vendors to evaluate the results of fingerprinting required under § 73.57. The Commission agrees with the received comments and revised the proposed rule text to allow licensees and applicants to use an alien registration or an I–94 Form to verify the identity of a foreign national. Additionally, the NRC deleted the requirement that required contractors or vendors to evaluate the results of fingerprinting required under § 73.57, and now only licensees or applicants may do so.

The Commission received comments that the phrase, ''full credit history evaluation'' stated in proposed § 73.56(d)(5) needs additional clarification and specification by providing a time period for credit history. The comments also stated that fraud check should be deleted from credit history checks and that credit history checks, or other financial documentation, should be required for foreign nationals in the final rule. The Commission agrees in part and disagrees in part with the comments. The Commission disagrees with specifying the time period for a credit history evaluation and deleting fraud checks from the credit history check as the Commission notes that the requirements set forth in this paragraph are consistent with the requirements set forth in the 2003 order and with current industry practice. Further, the full credit history evaluation requirements reflect the Commission's intent that all financial information available through credit-reporting agencies is to be obtained and evaluated because it has the potential to provide highly pertinent information. However, the Commission agrees with the commenter that the requirement should address credit history checks of foreign nationals. The Commission

recognizes that certain foreign nationals' host countries may not have routinely accepted credit reporting mechanisms, and therefore, the Commission revised the final rule text to allow multiple sources of credit history that could potentially provide information about a foreign national's financial record and responsibility, not limited to routinely accepted credit reporting mechanisms.

The Commission revised proposed § 73.56(d)(7) to distinguish the criminal history records check requirements for those individuals who are expected to have unescorted access or unescorted access authorization. Individuals who are expected to have unescorted access must have a criminal history records check in accordance with the requirements of 10 CFR 73.57. However, the NRC cannot obtain a criminal history records check in accordance with § 73.57 for individuals not expected to have unescorted access because Section 149 of the AEA limits the NRC's ability to obtain fingerprints from those individuals. Instead, a criminal history records check of those individuals not expected to have unescorted access will be obtained in accordance with § 73.56(k)(1)(ii).

Section 73.56(e), Psychological Assessment. The Commission received comments that the term ''clinical'' should be removed from the phrase ''a licensed clinical psychologist or psychiatrist'' in proposed § 73.56(e)(1) pertaining to qualifications for psychologists or psychiatrists who conduct psychological assessments for trustworthiness and reliability. The commenter stated that psychologists or psychiatrists are licensed by states. However, some states might not issue licenses using the term ''clinical'' psychologists or psychiatrists. The Commission agrees with the comment and deleted the term ''clinical'' because the focus is on a psychologist or psychiatrist who has adequate experience, and that focus should not be limited by a particular term that some states may not use in their licensing procedures.

The Commission received comments that because proposed § 73.56(e)(2) would have required psychologists and psychiatrists to follow the ethical principles established by the American Psychological Association or American Psychiatric Association, the proposed regulation would limit the pool of available licensed and qualified psychologists and psychiatrists who can perform the required psychological assessments because these ethical principles might deviate from the ethical principles established by the states that license them and conflict with the requirements in proposed § 73.56(e)(3), which requires licensed psychologists and psychiatrists to have a face-to-face interview with an individual only after the individual surpasses predetermined thresholds on a psychological test. The commenter stated that § 73.56(e)(3) is, therefore, in conflict with the (e)(2) requirement to follow accepted ethical principles since part of the American Psychological Association's Ethical Principles and Code of Conduct mandates that psychologists interview in light of the research on or evidence of the usefulness of interviewing and would deviate from the ethical principles established by the American Psychological Association or American Psychiatric Association if it requires a psychological assessment that is not supported by research and for which the assessors are not properly trained.

The Commission disagrees with these comments. For the first comment, the Commission noted that the ethical principles established by the American Psychological Association or American Psychiatric Association specifically address the issues raised. These ethical standards require psychologists and psychiatrists to comply with the requirements of laws, regulations (including the requirements in section 73.56), or other governing legal authorities. Thus, the requirements set forth in this section do not deviate from the States' licensing requirements.

In response to the second comment, the Commission disagrees that §§ 73.56(e)(2) and (e)(4) are contradictory because Section 1.02 of ''Ethical Principle of Psychologists and Code of Conduct'' addresses this issue and states that, if a psychologist's ethical responsibilities conflict with law, regulations, or other governing legal authority, psychologists would have to take steps to resolve the conflict but must in any event adhere to the requirements of the law, regulations, or other governing legal authority.

In response to the third comment regarding sufficient demonstrated ability of psychological tests to help in the trustworthiness and reliability determination, the Commission directed the commenter to the considerable bodies of research in this area and pointed out a long track record of intelligence and other agencies that have used the Minnesota Multiphasic Personality Inventory—2 (MMPI–2) as well as other personality tests for this purpose. Additionally, the Commission noted that a psychological assessment is only one of many access authorization program elements that licensees and applicants use for determining an individual's trustworthiness and reliability.

However, agreeing in part with the last comment, the Commission revised proposed § 73.56(e)(1) in the final rule to require psychologists or psychiatrists to be appropriately trained. Finally, the Commission is confident that the results of psychological testing, combined with the results of other access authorization program elements, will yield high assurance regarding an individual's trustworthiness and reliability.

The commenters stated that proposed § 73.56(e)(3) should be revised to allow psychiatrists or psychologists to establish predetermined thresholds appropriate to the test and the target population that would be applied in interpreting the results to identify whether an individual shall be interviewed under § 73.56(e)(4)(i) of this section and interview the individual without administering the psychological test.

However, another commenter stated that establishing predetermined thresholds for the psychological test is not sufficient for establishing consistency among these psychological assessments. That commenter stated that psychologists or psychiatrists who perform psychological assessments must be properly trained. The Commission agrees with the first comment and revised the final rule to state that psychiatrists or psychologists shall establish the predetermined thresholds for each scale to determine whether an individual shall be interviewed. The Commission notes that it is appropriate and consistent with current professional practice for psychiatrists or psychologists, rather than the industry, to establish these threshold levels. However, the Commission disagrees with the second comment because the established thresholds for each scale must be applied equally and fairly to all individuals subject to the psychological assessment requirement, so a psychiatrist or psychologist may not waive this requirement in favor of an interview. Finally, the Commission agrees in part with the last comment and revised § 73.56(e)(1) to require that psychologists and psychiatrists be properly trained to ensure consistency among assessments.

The Commission received comments that proposed § 73.56(e)(5) would be too limiting and prescriptive in that it would make the reviewing official the focal point of a medical evaluation when licensees or applicants discover pertinent medical-related information about an individual who is being evaluated during an initial psychological assessment. One

commenter recommended that the Commission revise the proposed paragraph to avoid premature involvement of reviewing officials and therefore allow knowledgeable professionals to complete their evaluations and develop recommendations regarding the individual before involving the reviewing official. The Commission agrees with the commenters and revised the final rule to allow evaluation of the discovered medical information before reporting to the reviewing official.

While developing a response to the comments received in item 11 above, the Commission added § 73.56(e)(6) to address situations during a psychological reassessment where a psychologist or psychiatrist discovers any information, including a medical condition, that could adversely impact the fitness for duty, trustworthiness, or reliability of those individuals who are granted unescorted access or certified unescorted access authorization. The psychologist or psychiatrist must promptly inform the reviewing official, or the appropriate medical personnel, of this discovery to ensure that information is evaluated to determine that each person is trustworthy and reliable.

Section 73.56(f), Behavioral Observation. The Commission received comments that proposed §§ 73.56(f)(3) and (g) should be revised to allow individuals to report any concerns arising from a behavioral observation program or reportable legal actions to the reviewing official, the individual's supervisor or other management personnel designated in their site procedures. The Commission agrees. The Commission finds that individuals should be given options, with minimal restrictions, regarding to whom they can report any concerns that arise from a behavioral observation program or reportable legal actions by allowing an individual to report to the reviewing official, the individual's supervisor or other management personnel. However, if the recipient of the report is someone other than the reviewing official, that person must promptly convey the report to the reviewing official, who shall determine whether to maintain, administratively withdraw, or unfavorably terminate the reported individual's unescorted access or unescorted access authorization status.

Section 73.56(h), Granting Unescorted Access and Certifying Unescorted Access Authorization. To increase clarity in the organizational structure of the requirements set forth in § 73.56(h), the Commission reorganized §§ 73.56(h)(1), (h)(2), (h)(8), (h)(9), and (h)(10) to (h)(5), (h)(6), (h)(1), (h)(2), and (h)(3), respectively, in the final rule. Additionally, the Commission incorporated proposed §§ 73.56(h)(3), (h)(4), (h)(5), (h)(6), and (h)(7) into § 73.56(h)(4). The NRC has added the last two sentences in § 73.56(h)(4)(ii) to correct errors in proposed § 73.56(h)(3), which incorrectly listed reinstatement requirements for those individuals who last held unescorted access or unescorted access authorization that was terminated under favorable conditions within the past 30 days.

The Commission received two comments that proposed § 73.56(h)(8), stipulating the determination basis, needs to be revised to allow licensees to deny unescorted access to an individual as soon as the reviewing official receives information that would warrant such a decision even if the reviewing official has at that point not acquired all the information required by proposed § 73.56. The Commission agrees with the comment and revised § 73.56(h)(1)(ii) to reduce unnecessary regulatory burden by providing licensees and applicants the flexibility to terminate the process upon receipt of disqualifying information.

The Commission received two comments that proposed § 73.56(h)(10) should be revised to require the initial access authorization process for assessing individuals who have been in an access-denied status and prevent licensees who possess derogatory information about individuals from allowing those individuals any access, whether unescorted or escorted, to their protected areas.

The Commission agrees with the first comment and revised the final rule to delete reference to a re-instatement procedure by the licensee and to require that the initial access authorization process be used for adjudicating the access denied status consistent with current licensee practices. The Commission disagrees with the second comment. The Commission's unescorted access requirements do not contain specific prescriptive disqualifiers for access; nor does the Commission believe it is prudent to add any. Licensees are required by § 73.56(h) to consider all of the information obtained in the background investigation as a whole in determining whether an individual is trustworthy and reliable before granting unescorted access. There is no particular piece of information that would automatically disqualify an individual from access. Furthermore, the commenter's suggestion that when licensees ''possess'' or ''come across'' such derogatory information the individual should be prevented from having any access is unworkable from a regulatory perspective. In order to avoid potential enforcement action, a licensee would be put in a position to conduct a full background investigation on an individual, which would undermine the entire purpose behind having the ability to escort visitors on site. The Commission does not see a basis to impose such a measure. The Commission has concluded that the requirements set forth in this section sufficiently address denial of unescorted access or unescorted access authorization based upon receipt of disqualifying information. The requirements for granting escorted access to visitors are sufficiently addressed in 10 CFR 73.55.

Section 73.56(i), Maintaining Unescorted Access or Unescorted Access Authorization. The Commission received three comments that proposed § 73.56(i)(1)(iv) should be revised. Commenters indicated that the Commission made improper reference to licensees' and applicants' Physical Security Plan for details about the Behavior Observation Program, should replace the term ''interview'' with the term ''review'' when referring to the ''annual supervisory review'' under which all individuals must undergo, and should use an ''annual'' supervisory review period rather than the phrase ''nominal 12 months.''

The Commission agrees with the first comment and revised the final rule to replace reference to the Physical Security Plan with reference to a licensee's Behavior Observation Program because details about the Behavior Observation Program, such as the annual supervisory review, are not found in the Physical Security Plan but rather in the licensee's Behavior Observation Program documents. The Commission agrees in part with the second comment regarding the use of the annual supervisory review or interview, when applicable. All individuals must be subject to an annual supervisory review, and the Commission added the requirement that an individual be subject to a supervisory interview if his/her supervisor has not had frequent interaction with and observation of the individual throughout the review period. The Commission notes that not all supervisors have sufficient information about all of their employees due to current workforce practices and trends making close interaction between supervisors and their employees less common and difficult to achieve. Therefore, the Commission added the interview requirement to ensure that supervisors have an adequate basis to

make an informed and reasoned opinion regarding an individual's behavior, trustworthiness, and reliability. Finally, the Commission agrees that the term ''annual'' should be used instead of ''nominal 12-month'' supervisor review as ''annual'' is the established component of industry practice.

The Commission received comments that the 5-year psychological reassessment requirements for individuals who are granted unescorted access or certified unescorted authorization in the proposed § 73.56(i)(1)(v)(A) deviates from current practice and imposes significant cost to the licensee with minimal benefits. The Commission agrees in part regarding the proposed 5-year psychological reassessments. The Commission agrees that requiring a psychological re-evaluation as part of the 5-year review for all individuals maintaining unescorted access or unescorted access authorization status will add significant and unnecessary costs, deviates from pre-existing requirements, and provides minimal benefits. Therefore, the Commission revised the final rule to limit the group of individuals who are subjected to 5-year psychological reassessments to those individuals who perform the job functions described in § 73.56(i)(1)(v)(B). The Commission believes these individuals should have a re-assessment on a periodic basis.

The Commission received comments that the requirement set forth in proposed § 73.56(i)(1)(v)(B), requiring the reviewing official to complete an evaluation of the criminal history update, credit history re-evaluation, psychological re-assessment, and the supervisory review within 30 calendar days of initiating any one of these elements, deviates from current practice as industry does not conduct these evaluations concurrently. The Commission agrees in part with the comment and revised § 73.56(i)(1)(v)(C) in the final rule to state that only the credit history review and the criminal history review are to be completed within 30 calendar days of each other to be consistent with current industry practice. Because the purpose of the re-evaluation is to provide a re-assessment based on a collective review of data at a point in time and because a credit history review and a criminal history review can be completed collectively within a small number of days, the Commission has retained this 30 calendar day requirement.

Section 73.56(k), Background Screeners. The Commission received comments that § 73.56(k)(2)(ii), regarding criminal history checks for access authorization program screening personnel, should be revised to allow licensees and applicants to use the criminal history check required by proposed § 73.56(d)(7) in lieu of a local criminal history review. The Commission agrees with the comments and revised the proposed rule text in the final rule to allow the flexibility of using either criminal history check process for individuals who are subject to the requirement because of a need for unescorted access or unescorted access authorization.

Section 73.56(m), Protection of Information. The Commission received comments that proposed § 73.56(m)(3), pertaining to providing information on denial or unfavorable termination of access determinations to authorized personnel, did not describe a means for licensees (1) to verify whether a representative who requests the reasons for denying its client's unescorted access is legitimate and (2) to protect the sources of the derogatory information. The Commission agrees with the received comments and revised § 73.56(m)(2) of the final rule to specify that representatives must be designated by the individual in writing and that personal privacy information, including information pertaining to the source, may be redacted. The Commission concluded that these requirements are necessary to provide the regulatory framework to ensure the protection of personal information.

Section 73.56(n), Audits and Corrective Action. The Commission received comments that proposed § 73.56(n)(5), which would have required the audit team to include a person who is knowledgeable and practiced with meeting access authorization program performance objectives, is not appropriate for contractors or vendors. The commenters stated that the contractor or vendor audit team may not have such a person who is knowledgeable of and practiced with meeting authorization program performance objectives and requirements. The Commission disagrees. This requirement applies to licensees and applicants who are responsible for meeting the requirements of this section. The rule requires that licensees and applicants will perform audits of their access authorization program to include those program elements that are provided by contractors and vendors.

The Commission received comments on proposed § 73.56(n)(6) that it would not be consistent with appendix B to 10 CFR part 50 of this chapter, regarding who should receive the audit report. The Commission agrees and revised the final rule § 73.56(n)(6) to require that audit results be provided to senior management having responsibility in the area audited and to management responsible for the access authorization program to ensure proper disposition and oversight of issues identified during the conduct of audits.

G. Section 73.58, Safety/Security Interface Requirements for Nuclear Power Reactors

The Commission did not make substantial changes to the final rule requirements for § 73.58. In response to comments, the Commission clarified the supporting section-by-section analysis for § 73.58. The principal concern expressed by stakeholders was that the proposed § 73.58 provisions appeared to require implementation of broad new programmatic requirements, and that it did not appear that the NRC had sufficiently credited existing Commission required programs. It is not the intent of this new requirement to impose new programmatic requirements on licensees. If current programs and procedures are in place to enable the safety/security interface to be assessed and managed, the Commission expects that licensees would make maximum use of such programs. The Commission does not believe it is necessary to credit these existing programs in the rule. Instead, it intends to address the crediting of existing programs in supporting regulatory guidance. In response to public comment that expressed confusion as to the Commission's basis for imposing the new § 73.58 requirements, the Commission clarified the final rule section-by-section analysis for § 73.58 to indicate that the new requirement is being added to part 73 as a cost-justified, substantial, safety enhancement per § 50.109(a)(3) and in response to PRM–50–80.

H. Appendix B to Part 73, General Criteria for Security Personnel

The Commission received comments on the proposed title of appendix B, section VI, which indicated that the title did not specify the applicability of this appendix to security personnel. The Commission agrees. The title of section VI of this appendix is revised to ''Nuclear Power Reactor Training and Qualification Plan for Personnel Performing Security Program Duties'' in the final rule to reflect the members of the security organization and other facility personnel that may be trained and qualified to perform security-related duties at an NRC-licensed nuclear power reactor facility.

Appendix B, Section VI.A.I. The Commission received comments on this

paragraph that stated the proposed requirement could be broadly interpreted to apply to many varied licensee positions. The Commission agrees. The final rule is revised to clarify that the intent of this requirement is to ensure that all individuals who perform physical protection and/or contingency response duties within the security program meet the minimum training and qualification requirements for their assigned duties as specified within this appendix and the Commission-approved training and qualification plan. The word ''individuals'' is used to capture members of the security organization as well as those facility personnel who are assigned to perform physical protection and/or contingency response duties within the security program. Facility personnel performing physical protection duties such as vehicle escort and materials search are included in the context of this paragraph and the paragraphs throughout this appendix where the word ''individuals'' is used, and is not preceded or followed by phrasing that specifically identifies members of the security organization. Facility personnel performing physical protection duties need only meet the minimum training and qualification requirements for the specific duty assigned in accordance with this appendix and the Commission-approved training and qualification plan. Where requirements of this appendix specifically apply to members of the security organization, the language explicitly identifies this applicability.

Appendix B, Section VI.A.3. The language in this paragraph, and paragraphs B.2.a(2), B.2.a(4), B.3.c, B.5.a, B.5.b, D.1.a, D.2.a, is revised from ''members of the security organization'' to ''individuals.'' This revision is necessary to include facility personnel who are not members of the security organization but have been trained and qualified in accordance with this appendix and the Commission-approved training and qualification plan and who are assigned to perform physical protection duties such as vehicle escort or material search.

Appendix B, Section VI.B.1.a(3). The language in this paragraph is revised to remove the phrase ''an unarmed individual assigned to the security organization'' as the applicability of this requirement is previously specified in section B.1.a.

Appendix B, Section VI.B.1.a(4). During development of the final regulations implementing the firearms background checks required under section 161A of the AEA (42 U.S.C. 2201a), the Commission recognized that the proposed suitability requirements for security personnel found in appendix B to part 73, criteria VI.B.1, were not inclusive of the list of disqualifying criteria found under the Gun Control Act of 1968 (GCA) (see 18 U.S.C. 922(g) and (n)). The GCA mandates that it is unlawful for individuals who meet these disqualifying criteria to possess firearms or ammunition. During development of the guidelines required by section 161A of the EPAct (discussed previously in section I.D.(a)), the NRC discussed this issue with the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosive (ATF) which has responsibility for regulatory oversight of this statute. The ATF's relevant regulation on these provisions is found in 27 CFR 478.32.

During these discussions, ATF advised the NRC that it interprets ''any person'' under 18 U.S.C. 922(d) very broadly and that the prohibition under this paragraph would apply to NRC licensees and certificate holders. Furthermore, the ATF indicated that this prohibition would apply to typical licensee or certificate holder security practices involving the temporary possession of firearms and ammunition. For example, instances in which a licensee issues firearms and ammunition to a security officer at the beginning of the officer's duty shift and the officer then returns the firearms and ammunition to the licensee at the end of the officer's duty shift would fall under the restrictions of 18 U.S.C. 922(d).

Consequently, the Commission has revised the language in Criteria VI.B.1 to remind licensees of their obligation to comply with this statutory requirement by adding a criterion to the licensee's employment suitability program for armed security officers. However, to account for the possibility that the law may change, or future laws may be enacted affecting this obligation, the final rule is written generically to maintain flexibility and reduce the potential need to revise this requirement in future rulemakings. The Commission is not imposing additional investigatory requirements on licensees. The Commission's intent is for licensees to consider information collected as a result of the individual's background investigation for identification of GCA disqualifying criteria.

In the proposed rule the Commission had set forth proposed requirements for a firearms background check under § 73.18. However, and as discussed elsewhere in this document, the Commission is separating the provisions implementing section 161A of the EPAct 2005, into a separate rulemaking and intends to relocate the firearms background check provisions to § 73.19. Consequently, because that rule may not be issued before this rule or because a licensee may not otherwise be subject to the firearms background check requirement, this rule permits a licensee to satisfy the firearms background check requirement by comparing information obtained during their access authorization background investigation process with the disqualifying criteria under the GCA to evaluate whether an individual could be prohibited from possessing firearms and ammunition. The Commission notes that a final determination on whether an individual is, or is not, disqualified from possessing firearms and ammunition can be made via a Federal firearms background check or an applicable State firearms check. Furthermore, because this same issue also exists in criteria I.A.1 of appendix B for armed security personnel at other classes of NRC licensees and NRC certificate holders, the NRC also is making a conforming change in criteria I.A.1 of this appendix similar to that made to criteria VI.B.1 of this appendix.

Appendix B, Section VI.B.1.b. The Commission received comments on this proposed paragraph that stated this blanket addition of having a qualified training instructor document the qualifications of individuals assigned to perform physical protection and/or contingency response duties will create a huge administrative burden and add additional cost as processes overseen by other organizations (such as medical) would now require administration by a qualified training instructor. The NRC disagrees with this comment. The intent of this requirement is for the qualified training instructor to be responsible for the final documentation of each security critical task qualification as outlined in the Commission-approved training and qualification plan that is performed by individuals who are assigned physical protection and/or contingency response duties within the security program.

Appendix B, Section VI.B.2.a(1). The Commission received a comment recommending that the phrase ''of assigned security job duties and responsibilities'' be added to the end of this provision in the final rule to allow the use of personnel in a limited duty position. The Commission agrees, and this paragraph is revised in the final rule to add the phrase ''of assigned security duties and responsibilities'' to the end of this provision to enable members of the security organization who are medically disqualified from performing contingency response duties

or specific physical protection duties for a period of time to perform other physical protection duties that would not be affected by the medical disqualification.

Appendix B, Section VI.B.2.a(4). The Commission received comments on this proposed paragraph requesting further clarification as it appears that this requirement for armed and unarmed individuals who are assigned security duties and responsibilities identified in Commission-approved security plans and licensee protective strategy and implementing procedures (to meet the minimum physical requirements identified in this appendix) is more stringent than the existing requirement. The commenter specifically expressed the concern that personnel performing in day-to-day security operations but having little to no responsibility in an actual response to contingency events should not be required to meet an increased physical standard. The Commission disagrees with this comment. The physical standards associated with this requirement are identified in paragraphs B.2.b through B.2.f of this appendix within the final rule and reflect the basic physical requirements to ensure that an individual possesses the standard acuity levels associated with vision and hearing and that the individual does not have a medical condition that is detrimental to the individual's health or the performance of assigned duties. The standards identified in paragraphs B.2.b through B.2.f are applicable to all individuals who are assigned to perform physical protection and/or contingency response duties within the security program to include non-security organization personnel assigned to perform physical protection duties such as vehicle escort or material search.

Appendix B, Section VI.B.4.a. The Commission received comments on this proposed paragraph which stated that this requirement for armed members of the security organization to be subject to a medical examination before participating in the physical fitness test is redundant to the requirement of paragraph B.2.a(2). The NRC agrees in part. The physical examination discussed in paragraph B.2.a(2) of this appendix may be used to fulfill this requirement. The rule requires that an individual's current health status be verified before engaging in the physical fitness test and that there is no existing medical condition that would be detrimental to the individual's health when placed under the physical stress induced by the physical fitness test. Scheduling the physical fitness test for each armed individual as soon as possible after the date of the physical examination required by paragraph B.2.a(2) provides the verification of the individual's current health status minimizes the possibility of the individual incurring a medical condition from the time of examination to the time that the physical fitness test is administered.

Appendix B, Section VI.B.4.b(4). The Commission received comments that this proposed requirement for a qualified training instructor to document the physical fitness qualifications of the armed members of the security organization should allow for the use of a trained medical professional to attest to the physical fitness qualification. The Commission disagrees with the comment. The licensed medical professional is required to conduct the medical examination before the physical fitness test being administered. The purpose of the examination is to verify that the individual's current health status is sufficient to engage in the physical exertion of the test without being detrimental to the individual's health. The licensed medical professional provides a certification of the individual's health before the test but is neither required to administer the physical fitness test nor to document or attest to the successful completion of the test. The rule requires that a qualified training instructor documents the successful completion of the physical fitness test in the individual's training record and that the documentation of the completed requirement be attested to by a security supervisor. The physical fitness test is a performance-based test that is designed to demonstrate an individual's physical ability to perform assigned security duties during a contingency event. The test consists of performing physical activities associated with contingency response duties that replicate site specific conditions that would be encountered in the contingency response environment.

Appendix B, Section VI.C.2. The Commission received comments requesting clarification of the scope of the on-the-job training requirements. The Commission agrees that the scope of this requirement should be clarified and has revised this paragraph to describe the implementation of on-the-job training. The requirement for on-the-job training is added to ensure that individuals assigned duties to implement the physical security plan and safeguards contingency plan possess practical hands-on knowledge, skills and abilities needed to perform their assigned duties. Beyond the on-the-job training for daily security program duties, the Commission requires an additional 40 hours of on-the-job training specific to response to contingency events. The rule requires that individuals (*e.g.* response team leaders, alarm station operators, armed responders, and armed security officers designated as a component of the protective strategy) assigned duties and responsibilities to implement the safeguards contingency plan complete a minimum of 40 hours of on-the-job training specifically related to the licensee's protective strategy to demonstrate their ability to apply the knowledge, skills, and abilities required to effectively perform assigned contingency duties and responsibilities before assuming those duties.

Appendix B, Section VI.C.3. The Commission received various comments requesting the relocation of the performance evaluation program requirements from the proposed part 73, appendix C, section II to part 73, appendix B, section VI. The Commission agrees, and the final rule is revised to include the performance evaluation program requirements that were contained in the proposed part 73, appendix C, section II.

Due to the merging of requirements within this section of this appendix, many requirements have changed location and are renumbered. The following proposed rule paragraphs are removed from the performance evaluation program: the paragraph formerly identified as appendix C, section II.(l)(6)(iv): ''Licensees shall ensure that scenarios used for required drills and exercises are not repeated within any twelve (12) month period for drills and three (3) years for exercises,'' is removed to provide licensees the flexibility to repeat scenarios in conducting tactical response drills and force-on-force exercises. The paragraph formerly identified as appendix B, section VI, C.3.b(2): ''Tabletop exercises may be used to supplement tactical response drills and support force-on-force exercises to accomplish desired training goals and objectives,'' is more appropriate for regulatory guidance, therefore, is removed from this appendix.

The paragraph formerly identified as appendix C, paragraph (l)(5), stating that ''members of the mock adversary force used for NRC-observed exercises shall be independent of both the security program management and personnel who have direct responsibility for implementation of the security program, including contractors, to avoid the possibility for a conflict of interest'' has been deleted. As noted in the statements

of consideration to the proposed rule, the intent of adding this provision to the rule was to address Section 651 of the EPAct 2005. (71 FR 62837) However, as noted above, the NRC does not normally subject itself to its own regulatory requirements codified in the Code of Federal Regulations. Section 651 imposes an obligation on the NRC to implement the requirements of Section 651, which it has done. Licensees are not responsible for this requirement. In light of this, the Commission has determined that removing this provision from the final rule is necessary and is therefore deleted.

Appendix B, Section VI.C.3(a). The Commission received a comment on this paragraph that stated that the requirements in appendix B, section VI, C.3 do not address Section 651 of the EPAct 2005, which requires that not less often than once every 3 years, the Commission shall conduct security evaluations (to include force-on-force exercises) at each licensed facility that is part of a class of licensed facilities, as the Commission considers to be appropriate, to assess the ability of a private security force of a licensed facility to defend against any applicable design basis threat. Additionally, the commenter stated that this paragraph is not consistent with the current regulations, specifically § 73.46(b)(9) for Category I fuel cycle facilities which clearly states the requirement for a Commission role in the force-on-force exercise program. The Commission disagrees. Although the Commission has the discretion to issue regulations that govern its own practices (*e.g.* 10 CFR part 2), the Commission is not required to reflect a requirement in the form of its own regulations. If the NRC were required to implement an obligation in a particular way in a regulation, then direction would come from Congress in the authorizing statute. Unlike some other provisions of the EPAct 2005 (see, *e.g.*, Section 170E requiring the NRC to conduct a rulemaking to revise the design basis threat), the EPAct 2005 did not require the Commission to implement the requirements of Section 651 by any particular method. In light of this, the Commission has the discretion to implement its statutory obligations as it sees fit.

The commenter references paragraph § 73.46(b)(9) (regarding force-on-force exercises for Category I strategic special nuclear material (SSNM) fuel cycle facilities) as an example of a regulation that imposes an obligation on the NRC to conduct force-on-force evaluations, and the commenter argues that the power reactor regulations should take a consistent approach. Section 73.46(b)(9), however, does not reflect the proposition claimed by the commenter. This provision requires that, during each 12-month period commencing on the anniversary of the date specified in § 73.46(i)(2)(ii) of this section, an exercise must be carried out at least every 4 months for each shift, one third of which are to be force-on-force and that during each of the 12-month periods, the NRC shall observe one of the force-on-force exercises. Thus, the regulation imposes an obligation on the licensee to organize and conduct a force-on-force exercise to meet the requirement and for the licensee to coordinate with the NRC who would ''observe'' one of those exercises. In contrast, the NRC is responsible for the conduct of force-on-force exercises for power reactor licenses mandated by Section 651 of the EPAct 2005. That this requirement is not specifically reflected in a regulation is therefore not inconsistent with the requirements of § 73.46 and is consistent with the agency's long-established practices.

The Commission notes, however, that it has strictly complied with the requirements of Section 651. Since the enactment of Section 651, which added Section 170D of the AEA, the NRC has conducted over 80 force-on-force inspections at nuclear power plants. In addition, the NRC has submitted three annual reports to Congress describing the results of its security inspections, as required by Section 170D.e of the AEA. (See, *e.g.*, the Commission's second annual report to Congress, available at *http://www.nrc.gov/security/2006-report-to-congress.pdf*). The Commission is, therefore, in full compliance with Section 170D of the AEA and does not see the need to codify requirements to impose an obligation on itself to meet this obligation.

Appendix B, Section VI.C.3.b. This proposed paragraph is revised to reflect the overall program scope that is the basis for its design, and the content of the necessary implementing procedures to conduct tactical response drills and force-on-force exercises. The periodicity requirement for the conduct of tactical response drills and force-on-force exercises is removed from this paragraph as it is specified in paragraph C.3.l(1) of this appendix.

Appendix B, Section VI.C.3.c. A commenter stated this section does not comply with the EPAct 2005 because this section does not state whether these exercises will be evaluated by NRC or even if the results of the drills will be required to be submitted to the NRC. As noted earlier, the Commission does not agree that it is appropriate to place a requirement on the NRC in this rule text. This proposed requirement (formerly paragraph C.3.b of this appendix) is renumbered and moved to the performance evaluation program section of this appendix. The text within this paragraph, as well as all of the other paragraphs within this appendix that include the specific text of ''tactical response team drills and exercises,'' has been changed to ''tactical response drills and force-on-force exercises'' for accuracy and consistency of language.

Appendix B, Section VI.C.3.d. The proposed paragraph C.3.b(1) was renumbered and moved to the performance evaluation program section of this appendix. The Commission received comments that stated that, in the context of this paragraph, the rule language should focus on the scope of drills and exercises and not solely on the performance of individual participants. The Commission agrees and the final rule text was revised to address both the scope of conducting tactical response drills and force-on-force exercises as well as the importance of individual performance by the members of the security response organization.

Appendix B, Section VI.D.1.b. The Commission received comments which requested that this paragraph, pertaining to the annual written exam and performance demonstrations, be revised to be consistent with the current regulatory requirements. The Commission also received a comment recommending that the requirement for the annual written exam be relocated to paragraph F.7 of this appendix as it applies to armed security officers. The Commission agrees in part and has revised the requirement by replacing the phrase ''annual written exam'' with the phrase ''written exams'' to cover all written exams that may be administered to armed and unarmed individuals to demonstrate their proficiency. The requirement for the annual written exam is now addressed in paragraph D.1.b(3) and identifies the specific applicability of the annual written exam to armed members of the security organization.

Appendix B, Section VI.D.1.b(3). This paragraph is added to provide clarification on the specific applicability of the requirement for an annual written exam to be administered to armed members of the security organization.

Appendix B, Section VI.E.1.d. The Commission received comments requesting that the list of prescribed proficiency standards be revised so that it remains consistent with the standards outlined in the April 2003 training and qualification order (EA–03–039). The

Commission disagrees that a revision is necessary. Most of the elements in this requirement are retained from the pre-existing rule and reflect new elements that had been imposed by Commission orders. The additional items listed were not intended to be bound solely by the elements contained in the pre-existing list of order EA–03–039. The additions to the list reflect the Commission's expectation for training and the experience gained through nearly 30 years of security program inspections and observations. It is the Commission's view that these proficiency standards represent the minimal common firearms practices that must be followed to ensure the safe handling, operation, and appropriate training and qualification is achieved for weapons employed by a licensee. Nonetheless, this requirement has been revised to reflect accurate language consistent to what is used in the firearms community for the performance elements identified.

Appendix B, Section VI.F.1.c. The Commission received comments that recommended deleting the proposed requirement for individuals to be requalified annually as it is duplicative of the requirement stated in paragraph F.5 (proposed rule paragraph F.6). The Commission agrees and this requirement is removed in the final rule.

Appendix B, Section VI.F.2. The proposed rule paragraph F.2 is removed as the requirements for firearms qualification courses are clearly identified in paragraphs F.2, F.3, and F.4 (proposed rule paragraphs F.3, F.4, and F.5) of this appendix.

Appendix B, Section VI.F.3.a. This requirement has been renumbered due to the removal of other requirements under this paragraph. The Commission received comments on proposed rule paragraph F.4.a stating that the requirement for daytime shotgun proficiency has increased by 20 percent above the current requirement with no rationale provided. The Commission disagrees. The shotgun qualification score was upgraded from 50 percent in the current rule to a score of 70 percent to demonstrate an acceptable level of proficiency which is now reflected in this appendix. The Commission found 70 percent to be a professionally accepted minimum qualification score for daytime shotgun proficiency in the firearms training community (local, State, and Federal law enforcement, National Rifle Association (NRA), International Association of Law Enforcement Firearms Instructors (IALEFI), etc.).

Appendix B, Section VI.F.3.b. This requirement has been renumbered from proposed rule paragraph F.4.b due to the removal of other requirements under this paragraph. The Commission received comments that stated nighttime shotgun proficiency has increased by 20 percent above the current requirement with no rationale provided. The Commission disagrees. The Commission found 70 percent to be a professionally accepted minimum qualification score for nighttime shotgun proficiency in the firearms training community (local, State, and Federal law enforcement, NRA, IALEFI, etc.). The ''night fire'' requirement is upgraded from being an element of familiarization fire in the current rule to a qualification requirement in the final rule. This upgrade is necessary to ensure armed members of the security organization possess and maintain a standard level of proficiency during nighttime conditions. A score of 70 percent for handgun and shotgun and 80 percent for the semi-automatic rifle and/or machine gun must be achieved to demonstrate an acceptable level of proficiency.

Appendix B, Section VI.F.5. The NRC received comments on proposed rule paragraphs F.5.a(2), F.5.b(2), F.5.c(2), and F.5.d(2) that recommended deleting these requirements as they are duplicative of the requirements in paragraphs F.3.a, b, and c (formerly paragraphs F.4.a, b, and c). The Commission agrees that these requirements are duplicative and has therefore removed them from the final rule. The minimum qualification score for these weapons are stated in the re-numbered paragraphs F.3.a and F.3.b of this appendix.

Appendix B, Section VI.F.5.a. The Commission received a comment on proposed rule paragraph F.6.a that recommended adding the phrase ''and the results documented and retained as a record'' to the end of the provision. The Commission agrees and this requirement is revised to include the recommended phrase. The rule requires licensees to document the successful completion of qualifications for each weapon system fired and that records of qualifications be maintained.

Appendix B, Section VI.G.2.b. The Commission received a comment stating that the rule should not require that security officers carry body armor with them but rather that body armor be readily available should the security officers choose to wear it. The commenter also noted that every security officer is already required to have access to body armor. The commenter, therefore, suggested that the rule be revised to permit the pre-staging of body armor at assigned response positions as appropriate. The commenter also noted that duress alarms are not personal equipment required for security officers and should not be listed as such. The Commission agrees with the commenter and has revised this paragraph in the final rule to clarify the specific applicability of the required equipment listing to those armed security personnel who are responsible for the implementation of the safeguards contingency plan, protective strategy, and associated implementing procedures. This revision permits a licensee to pre-stage equipment (such as body armor) at designated locations consistent with their protective strategy. The required equipment listing under this paragraph is also revised to remove ''(4) Duress alarms'' as this piece of equipment is not personal equipment associated with the specific duties of armed security personnel. It is added, however, to paragraph G.2.c as an optional piece of equipment that may be made available for use in accordance with the protective strategy and implementing procedures.

Appendix B, Section VI.G.2.c. The Commission received a comment that the listing of personal equipment should not prescriptively identify particular pieces of equipment as either optional or required but rather the rule should permit licensees to designate required personal equipment based on individual protective strategy requirements. The commenter recommended that the term ''as appropriate'' be inserted after the text ''should provide'' within the paragraph. The Commission agrees in part, and this paragraph is revised in the final rule to include the recommended phrase to further clarify the suggested employment and distribution of the identified equipment that should be provided in accordance with licensee policy and implementing procedures. The equipment listing under this paragraph is revised to include ''duress alarms'' as the equipment identified in this listing is based upon what may be deemed by the licensee as appropriate to fulfill specific physical protection and/or contingency response duties as well as provide enhanced capabilities to the security organization during day-to-day security operations and contingency events.

Appendix B, Section VI.G.3.a. The NRC received a comment that the requirement for armorer certification is new and not well-defined by the proposed rule. The commenter believes that the requirement that the armorer be certified is unnecessary because it limits licensee flexibility to use experienced but uncertified personnel. The Commission disagrees. The rule requires that only those individuals who are

certified by the weapons manufacturer or a contractor working on behalf of the manufacturer shall be used to perform maintenance and repair of licensee firearms. Licensees may use a manufacturer's armorer and certification process or use a contractor certified by the manufacturer as an armorer to perform maintenance and repair of licensee firearms. The proposed language of this requirement is maintained in the final rule text.

H. Appendix C to Part 73, Licensee Safeguards Contingency Plans

General. The Commission received comments on this appendix that the proposed changes would expand focus of the safeguards contingency plan (SCP) by requiring specifics on non-security response efforts to prevent significant core damage. In addition, the commenters stated that the level of detail that would be required in the SCP would be inappropriately increased. The Commission agrees in part. It is the Commission's intent that licensee's SCP focus on the predetermined actions of the site security force, and the final rule has been revised to clarify this focus. The intent is not to incorporate other site emergency plans into the SCP but to ensure that the licensee has considered these other plans to avoid potential conflict. To accomplish this, the NRC retained rule language in a format similar to the current regulation, included requirements similar to those that had been imposed by the Commission orders, reorganized the requirements, and modified the language for a more concise understanding.

Appendix C, Section II.B Contents of the Plan. The Commission received comments that the proposed appendix C inappropriately included a licensee's entire integrated response for all postulated events including those beyond the DBT. The commenters were also concerned that portions of these requirements were not security related and, therefore, should not be included in the security rule. The Commission agrees in part with these comments and has revised the final rule accordingly. Appendix C, section II has been revised to more clearly reflect what the Commission expects to be included in a licensee's SCP. The following proposed rule categories of information have been moved to the licensee's planning basis: (5) ''Primary Security Functions,'' (6) ''Response Capabilities,'' and (7) ''Protective Strategy.''

The proposed rule category of information (8) ''Integrated Response Plan'' is also removed from this appendix. The requirements associated with this paragraph have been removed, modified, and/or relocated to other applicable areas within this appendix to reduce confusion related to the redundancy and duplication of information. In addition, the proposed rule category of information (9) ''Threat Warning System'' is removed from this appendix and included in 10 CFR 73.55(k)(10). The proposed rule category of information (9) requirement regarding 'imminent threat' is relocated to new 10 CFR 50.54(hh)(1).

The Commission received comments that the requirements of the performance evaluation program be moved to part 73, appendix B. As explained earlier, the Commission agrees. The proposed rule category of information (10) ''Performance Evaluation Program'' is removed from this appendix in its entirety and has been incorporated in part 73, appendix B, as these requirements describe the development and implementation of a training program for the security force in response to contingency events.

IV. Section-by-Section Analysis

A. Introduction

The purpose of this section is to identify what sections are being affected by this final rulemaking and to provide explanations of the purpose, scope, and intent of each section.

B. Section 50.34, Contents of Construction Permit and Operating License Applications; Technical Information

Paragraph (c) of § 50.34 is revised to require applicants for an operating license to submit a training and qualification plan (in accordance with appendix B to part 73) and a cyber security plan (in accordance with the criteria in § 73.54). These plans are in addition to the licensee's physical security plan. Paragraph (c) is revised such that the submittal requirements for applicants for licenses that are subject to §§ 73.50 and 73.60 remain unchanged.

Paragraph (d) of § 50.34 is revised to require applicants for an operating license to submit a safeguards contingency plan in accordance with section II of appendix C to part 73. Section II of appendix C is revised to contain the requirements limited to power reactor licensees. Additionally, paragraph (d) is revised so that the safeguards contingency plan submittal requirements for applicants for licenses that are subject to §§ 73.50 and 73.60 remain unchanged by requiring that these applicants follow section I of appendix C to part 73.

Paragraph (e) of § 50.34 is revised to require the cyber security plan, which is a new plan required by this rulemaking and which contains Safeguards Information, to be protected against unauthorized disclosure consistent with § 73.21.

Paragraph (i) is added to § 50.34 to require submittal of a description and plans for implementation of the guidance and strategies intended to maintain or restore core cooling, containment, and spent fuel pool cooling capabilities under the circumstances associated with the loss of large areas of the plant due to explosions or fire as required by § 50.54(hh)(2). Regarding the requirements of § 50.54(hh)(2), the NRC views the mitigative strategies as similar to those operational programs for which a description of the program is provided as part of the license application and that will be implemented before plant operation. The Commission plans to review the program description provided in the application as part of the licensing process and perform subsequent inspections of procedures and plant hardware to verify implementation. Because the Commission finds that the most effective approach is for the mitigative strategies, at least at the programmatic level, to be developed before construction and reviewed and approved during licensing, a requirement for information has been added to §§ 50.34 and 52.80.

C. Section 50.54, Conditions of Licenses

Section 50.54(p)(1) is revised to add the cyber security plan to the list of plans for which the plan changes need to be controlled by § 50.54(p).

D. Section 50.54(hh), Mitigative Strategies and Response Procedures for Potential or Actual Aircraft Attacks

The mitigative strategies and response procedure requirements for potential or actual aircraft attacks are located in new § 50.54(hh) so that these requirements are a condition of an operating or combined license. This approach was chosen to ensure consistency with the method by which the 2002 ICM order B.5.b mitigative strategies requirements have been implemented for currently operating reactors. (See Orders Modifying Licenses, 71 FR 36554; June 27, 2006).

Section 50.54(hh)(1) establishes the necessary regulatory framework and clarifies current expectations to facilitate consistent application of Commission requirements for preparatory actions to be taken in the event of a potential aircraft threat to a

nuclear power reactor facility. Because aircraft threats are significant, rapidly evolving events and because licensees may only receive threat notifications a short time before potential onsite impacts, the NRC has determined that it is not prudent for licensees to attempt to identify and accomplish *ad hoc* mitigative actions in the midst of such circumstances and employing a reactive approach would significantly limit the effectiveness of onsite and offsite responses. To cope effectively with potential aircraft threats, the rule requires licensees to develop specific procedures, whether in a single procedure or among several procedures, that describe the pre-identified actions licensees intend to take when they are provided with pre-event notification. These pre-event preparations provide the most effective responses possible to aircraft threats and demonstrate systematic onsite and offsite planning, coordination, communication, and testing.

To the extent possible, the rule requires licensees to develop, implement, and maintain procedures for verifying the authenticity of aircraft threat notifications to avoid taking actions in response to hoaxes that may adversely impact licensees or the health and safety of the public. Depending on the source of a threat notification, licensees may or may not be able to establish contact with appropriate entities to confirm the accuracy of the threat information received. Consequently, if the threat information is not received from the NRC Headquarters Operations Center, licensees are required to at least contact the NRC Headquarters Operations Center for assistance with verifying callers' identities or the veracity of threat information.

The national protocol for dealing with aircraft threats is designed to be proactive with respect to threat identifications and notifications. However, threat information sources may not be able to identify specific targets, and given the dynamic nature of potential aircraft threats, any associated notifications to licensees may necessarily be reactive in nature. Additionally, licensees must rely on sources which are external to their control rooms for potential aircraft threat notifications and updates when available. As a result, the rule requires licensees to develop, implement, and maintain procedures for the maintenance of continuous communication with threat notification sources because it is imperative that licensees establish and maintain this capability throughout the duration of the pre-event notification period. With such a capability, licensees will be able to receive accurate and timely threat information upon which to base decisions concerning the most effective actions that need to be taken. For example, licensees would be aware that they may be able to cease mitigative actions if it is determined a threat no longer exists, or licensees may accelerate their protective actions if the threat notification sources relate the aircraft may impact sooner than originally projected. The local, regional or national FAA offices; NORAD; law enforcement organizations; and the NRC Headquarters Operations Center are examples of threat notification sources with which licensees would be required to maintain a continuous communication capability. If a licensee encounters a situation where multiple entities are providing the same threat information (*e.g.,* FAA, NORAD and NRC Headquarters Operations Center), the licensee would only be required to maintain continuous communication with the NRC Headquarters Operations Center. The goal is to communicate pertinent information to licensees and not to unnecessarily burden their personnel with redundant requirements.

The rule also requires that licensees develop, implement, and maintain procedures for contacting all onsite personnel and appropriate offsite response organizations (*e.g.*, fire departments, ambulance services, emergency operations centers) in a timely manner following the receipt of potential aircraft threat notifications. These notifications ensure that onsite personnel have as much time as possible to execute established procedures and provide offsite response organizations the opportunity to perform the following:

- Initiate, where possible, mutual aid assistance agreements based on the perceived threat;
- Commence the near-site mustering of offsite fire-fighting and medical assistance for sites where these organizations are not proximately located; or
- Mobilize personnel for volunteer organizations or hospital staffs when appropriate.

Licensees are expected to provide periodic updates to offsite response organizations during the pre-event notification period as appropriate. During the pre-event notification period, the rule requires licensees to develop procedures to continuously assess plant conditions and take effective actions to mitigate the consequences of an aircraft impact. Examples include maximizing makeup water source inventories, isolating appropriate plant areas and systems, ceasing fuel-handling operations and equipment testing, starting appropriate electrical generation equipment, and charging fire-service piping headers. By taking these actions, licensees can better posture their sites to minimize the potential public health and safety effects of an aircraft crash at their facilities.

The rule also requires licensees to develop, implement, and maintain procedures for making site-specific determinations of the amount of lighting required to be extinguished, if any, to prevent or reduce visual discrimination of sites relative to their immediate surroundings and distinction of individual buildings within protected areas. For example, it may make sense to turn off all the lights at an isolated site but not for a site situated in an industrial area where ambient lighting from surrounding industries is sufficient for target discrimination. Licensees are expected to use centralized lighting controls or develop prioritized routes that allow personnel to turn off different sets of lights depending on available time when appropriate.

The safety of licensee personnel and contractors is paramount to the successful response and implementation of mitigative measures after an onsite aircraft impact. To the maximum extent possible after an imminent aircraft threat notification, the rule also requires licensees to develop, implement, and maintain procedures for dispersing appropriate personnel and equipment (*e.g.,* survey vehicles and emergency kits) to locations throughout their sites. Such actions will increase the chance that critical personnel and equipment will be available to address the consequences of an onsite aircraft impact and reduce the need to make improvised decisions during the pre-event notification period. The decision whether to shelter the remaining personnel in-place or evacuate them in response to an imminent aircraft threat should be based on the physical layout of the site and the time available to conduct an effective evacuation. It is expected that licensees will conduct an analysis and develop a decision-making tool for use by shift operations personnel to assist them in determining the appropriate onsite protective action for site personnel for various warning times and site population conditions (*e.g.,* normal hours, off normal hours, and outages). This decision-making tool shall be incorporated into appropriate site procedures. It is expected that this tool will be routinely used in drills and exercises and that any deficiencies or weaknesses identified will be corrected

in accordance with § 50.47(b)(14) and appendix E to part 50, section IV.F.2.g. Depending upon the methodology used to determine evacuation times, it may not be necessary for a licensee to suspend security measures under §§ 50.54(x) or 73.55(p), as applicable. Licensees are required to develop procedures to facilitate the rapid entry of appropriate onsite personnel as well as offsite responders into their protected areas to deal with the consequences of an aircraft impact.

Because the most well-considered plans and procedures do not guarantee that critical on-shift personnel will survive an aircraft impact, the rule requires licensees to develop, implement, and maintain procedures for an effective recall process for appropriate off-shift personnel. Those procedures shall describe the licensee's process for initiating off-shift recalls during the pre-event notification period and for directing responding licensee personnel to pre-identified assembly areas outside the site protected areas. When possible, the assembly area locations should be coordinated with offsite response organizations to facilitate offsite response plans and to ensure that off-shift licensee personnel will not be delayed access to the site onsite when needed.

Section 50.54(hh)(2) requires licensees to develop guidance and strategies for addressing the loss of large areas of the plant due to explosions or fires from a beyond-design basis event through the use of readily available resources and by identifying potential practicable areas for the use of beyond-readily-available resources. These strategies are to address a licensee's responses to events that are beyond the design basis of the facility. The requirements in the final rule are based on similar requirements originally found in the ICM order of 2002. Ultimately, these mitigative strategies were further developed and refined through extensive interactions with licensees and industry. The NRC recognizes that these mitigative strategies are beneficial for the mitigation of all beyond-design basis events that result in the loss of large areas of the plant due to explosions or fires. Current reactor licensees comply with these requirements through the use of the following 14 strategies that have been required through an operating license condition. These strategies fall into the three general areas identified by §§ 50.54(hh)(2)(i), (ii), and (iii). The fire-fighting response strategy reflected in § 50.54(hh)(2)(i) encompasses the following elements:

1. Pre-defined coordinated fire response strategy and guidance.
2. Assessment of mutual aid fire fighting assets.
3. Designated staging areas for equipment and materials.
4. Command and control.
5. Training of response personnel.

The operations to mitigate fuel damage provision in § 50.54(hh)(2)(ii) includes consideration of the following:

1. Protection and use of personnel assets.
2. Communications.
3. Minimizing fire spread.
4. Procedures for implementing integrated fire response strategy.
5. Identification of readily-available, pre-staged equipment.
6. Training on integrated fire response strategy.
7. Spent fuel pool mitigation measures.

The actions to minimize radiological release provision in § 50.54(hh)(2)(iii) includes consideration of the following:

1. Water spray scrubbing.
2. Dose to onsite responders.

The Commission considered specifically including these 14 strategies in § 50.54(hh)(2). However, the Commission decided that the more general performance-based language in § 50.54(hh)(2) was a better approach to account for future reactor facility designs that may contain features that preclude the need for some of these strategies. New reactor licensees are required to employ the same strategies as current reactor licensees to address core cooling, spent fuel pool cooling, and containment integrity. The mitigative strategies employed by new reactors as required by this rule would also need to account for, as appropriate, the specific features of the plant design, or any design changes made as a result of an aircraft assessment that would be performed in accordance with the proposed Aircraft Impact Assessment rule (72 FR 56287; October 3, 2007).

Section 50.54(hh) is applicable to both current reactor licensees and new applicants for and holders of reactor operating licenses under either part 50 or part 52. Current reactor licensees have already developed and implemented procedures that comply with the § 50.54(hh)(2) requirements, and do not require any additional action to comply with these rule provisions. New applicants for, and new holders of, operating licenses under part 50 and combined licenses under part 52 are required to develop and implement procedures that employ mitigative strategies similar to those now employed by current licensees to maintain or restore core cooling, containment, and spent fuel pool cooling capabilities under the circumstances associated with loss of large areas of the plant due to explosions or fire. The requirements described in § 50.54(hh) relate to the development of procedures for addressing certain events that are the cause of large fires and explosions that affect a substantial portion of the nuclear power plant and are not limited or directly linked to an aircraft impact. The rule contemplates that the initiating event for such larges fires and explosions could be any number of beyond-design basis events. In addition, the Commission regards § 50.54(hh) as necessary for reasonable assurance of adequate protection to public health and safety and common defense and security; this is consistent with the NRC's designation of the orders on which § 50.54(hh) is based as being necessary for reasonable assurance of adequate protection.

As discussed previously, the Commission has proposed in a separate rulemaking to require designers of new nuclear power plants (*e.g.,* applicants for standard design certification under part 52, and applicants for combined licenses under part 52) to conduct an assessment of the effects of the impact of a large commercial aircraft on a nuclear power plant. Based upon the insights gained from this assessment, the applicant will be expected to include a description and evaluation of design features and functional capabilities to avoid or mitigate, to the extent practical and with reduced reliance upon operator actions, the effects of the aircraft impact. New reactor applicants would be subject to both the requirements of the aircraft impact rule and the requirements § 50.54(hh). The overall objective of the Commission with both rulemakings is to enhance a nuclear power plant's capabilities to withstand the effects of a large fire or explosion, whether caused by an aircraft impact or other event, from the standpoints of both design and operation. The impact of a large aircraft on the nuclear power plant is regarded as a beyond-design basis event. In light of the Commission's view that effective mitigation of the effects of events causing large fires and explosions (including the impact of a large commercial aircraft) should be provided through operational actions, the Commission believes that the mitigation of the effects of such impacts through design should be regarded as a safety enhancement which is not necessary for adequate protection. Therefore, the aircraft impact rule—unlike the

§ 50.54(hh)—is regarded as a safety enhancement which is not necessary for adequate protection.

The Commission regards the two rulemakings to be complementary in scope and objectives. The aircraft impact rule will focus on enhancing the design of future nuclear power plants to withstand large commercial aircraft impacts, with reduced reliance on human activities (including operator actions). Section 50.54(hh)(2) focuses on ensuring that the nuclear power plant's licensees will be able to implement effective mitigative measures for large fires and explosions including (but not explicitly limited to) those caused by the impacts of large commercial aircraft. Thus, these revisions to the Commission's regulatory framework for future nuclear power plants provide more regulatory certainty, stability, and increased public confidence.

Section 50.54(hh) requirements do not apply to decommissioning facilities for which the certifications required under § 50.82(a)(1) or § 52.110(a)(1) have been submitted. The NRC believes that it is inappropriate that § 50.54(hh) should apply to a permanently shutdown defueled reactor where the fuel was removed from the site or moved to an ISFSI. The Commission notes that the § 50.54(hh) do not apply to any current decommissioning facilities that have already satisfied the § 50.82(a) requirements.

The Commission issued guidance (Safeguards Information) to current reactor licensees on February 25, 2005, and additionally endorsed NEI 06–12, Revision 2, by letter dated December 22, 2006, as an acceptable method for current reactor licensees to comply with the mitigative strategies requirement. These two sources of guidance provide an acceptable means for developing and implementing the mitigative strategies. The Commission is currently developing a draft regulatory guide that consolidates this guidance and addresses new reactor designs.

E. Section 52.79, Contents of Applications; Technical Information in Final Safety Analysis Report

Section 52.79(a)(36) is revised to require the cyber security plan, developed in accordance with the criteria set forth in § 73.54, to be included amongst the security plans that are required to be included in the final safety analysis report for a combined license under part 52. In addition, the cyber security plan is added to the list of plans which must be handled as Safeguards Information in accordance with § 73.21.

F. Section 52.80, Contents of Applications; Additional Technical Information

Section 52.80(d) is added to § 52.80 to require a combined license applicant to submit a description and plans for implementation of the guidance and strategies intended to maintain or restore core cooling, containment, and spent fuel pool cooling capabilities under the circumstances associated with the loss of large areas of the plant due to explosions or fire as required by § 50.54(hh)(2) of this chapter. The Commission views the mitigative strategies required by § 50.54(hh)(2) as similar to those operational programs for which a description of the program is provided as part of the combined license application and subsequently implemented before plant operation. The Commission reviews the program description provided in the application as part of the licensing process and performs subsequent inspections of procedures and plant hardware to verify implementation.

G. Section 72.212, Conditions of General License Issued Under § 72.210

Conforming changes were made to § 72.212 to reference the appropriate revised paragraph designations in § 73.55. No change to the substantive requirements of this section is intended. Conforming changes were made to preserve the current requirements for general licenses issued per § 72.210 for the storage of spent fuel in an ISFSI. The Commission has initiated a separate rulemaking to revise the requirements for the security of ISFSIs and thus prefers to maintain the current regulatory structure until that rulemaking is completed. Section 72.212(b)(5) requires that spent fuel stored in an ISFSI be protected against the design basis threat of radiological sabotage with conditions and exceptions. The changes made to § 72.212 are intended to preserve those conditions and exceptions since these ISFSI licensees are not the subject of the rulemaking. Specifically, § 72.212(b)(5)(ii) is revised to reference § 73.55(e) because § 73.55(e) provides the protected area criteria, within which the spent fuel must be stored, while preserving the exception that spent fuel is not required to be within a separate vital area.

Section 72.212(b)(5)(iii) is revised to reference § 73.55(h) because § 73.55(h) provides the personnel search criteria for § 72.212. Section 72.212 provides an exception allowing a physical pat-down search of persons to be performed in lieu of the use of firearms and explosives detection equipment. Section 72.212(b)(5)(iv) is revised to reference § 73.55(i)(3) since § 73.55(i)(3) provides the intrusion detection and assessment requirements for which § 72.212 provides an exception allowing a guard or watchman on patrol to provide this observational capability. Section 72.212(b)(5)(v) is revised to exempt ISFSI licensees from the requirements in § 73.55 to interdict and neutralize threats preserving this exception. Due to the restructuring of § 73.55, a specific reference to a paragraph in § 73.55 was no longer possible, and a more general exception was written into § 72.212. The Commission intends for the same exception to continue.

H. Section 73.8, Information Collection Requirements: OMB Approval

Section 73.8 is revised to add § 73.54 and § 73.58 to the list of part 73 sections, which contain collection requirements that have been approved by the Office of Management and Budget.

I. Section 73.54, Protection of Digital Computer and Communication Systems and Networks

This new section describes the requirements for nuclear power plant licensees to establish a cyber security program.

Section 73.54, General. This section requires current nuclear power plant licensees to submit a cyber security plan within 180 days of the effective date of the rule for NRC review and approval. The cyber security plan must be submitted to the NRC as a license amendment pursuant to § 50.90. Current applicants for an operating license or combined license who have submitted their applications to the NRC prior to the effective date of this rule are required to amend their applications to include a cyber security plan consistent with this rule.

Section 73.54(a), Protection. This paragraph establishes the regulatory framework and requirements for the cyber security program in meeting the requirement for protection against the design basis threat of cyber attack identified in § 73.1. This paragraph has been expanded from the proposed rule to provide a more detailed list of the types of systems and networks that are intended to be protected.

Section 73.54(b), Analysis of Digital Computer and Communication Systems and Networks. This paragraph establishes requirements for an analysis. The rule requires that each licensee will analyze the digital computer and communication systems and networks in use at their facility to identify those

assets that require protection and that the licensee's cyber security program will include measures for the protection of the digital computer and communication systems and networks identified by the licensee through the required analysis. Cyber security, like physical security, focuses on the protection of equipment, systems, and networks against attacks by those individuals or organizations that would seek to cause harm, damage, or adversely affect the functions performed by such equipment, systems, and networks. Cyber security and physical security programs are intrinsically linked and must be integrated to satisfy the physical protection program design criteria of § 73.55(b). The Commission recognizes that a uniquely independent technical expertise and knowledge is required to effectively implement the cyber security program, and therefore, the specific training and qualification requirements for the program must focus on ensuring that the personnel who implement the cyber security program are trained, qualified, and equipped to perform their unique duties and responsibilities.

Section 73.54(c), Cyber Security Program. This paragraph describes the design components of the cyber security program including controls, prevention, defense-in-depth, and system functionality. The cyber security program must be designed to implement security controls for protected digital assets; apply and maintain defense-in-depth protective strategies to ensure the capability to detect, respond, and recover from cyber attacks; and ensure the functions of protected digital assets are not adversely impacted due to cyber attacks. With regard to § 73.54(c)(4), the NRC requires that the cyber security program be designed to ensure that the intended function of the assets identified by § 73.54(a)(1) and the analysis required by § 73.54(b)(1) are maintained.

With regard to § 73.54(c)(2), defense-in-depth for digital computer and communication systems and networks includes technical and administrative controls that are integrated and used to mitigate threats from identified risks. The need to back up data as part of a defense-in-depth program is dependent upon the nature of the data relative to its use within the facility or system.

Defense-in-depth is achieved when (1) a layered defensive model exists that allows for detection and containment of non-authorized activities occurring within each layer, (2) each defensive layer is protected from adjacent layers, (3) protection mechanisms used for isolation between layers employ diverse technologies to mitigate common cause failures, (4) the design and configuration of the security architecture and associated countermeasures creates the capability to sufficiently delay the advance of an adversary in order for preplanned response actions to occur, (5) no single points of failure exist within the security strategy or design that would render the entire security solution invalid or ineffective, and (6) effective disaster recovery capabilities exist for protected systems.

The Commission's intent for a licensee's cyber security program is that a licensee or applicant implements operational elements to address the requirements of this rule but not necessarily address such requirements through the design of its facility. However, as with other elements of a licensee's physical security program, an applicant or licensee could consider how these requirements could be addressed through the design of its facility, to the extent practicable, but this is not required by the rule.

Section 73.54(d), Cyber-Related Training, Risk and Modification Management. This paragraph requires licensees to develop, implement, and maintain supporting programs within the cyber security program. The Commission requires licensees to perform an analysis as identified in § 73.54(b)(1) for any newly installed digital computer and communication systems and network equipment whether the new equipment is stand-alone or is installed to replace outdated equipment.

To ensure that the measures used to protect digital computer and communication systems and networks remain effective and continue to meet high assurance expectations, the licensee's cyber security program must evaluate and manage cyber risks. Licensees must evaluate changes to systems and networks when modifications are proposed for previously assessed systems and new technology-related vulnerabilities not previously analyzed in the original baseline or periodic assessments that would act to reduce the cyber security environment of the system are identified.

Section 73.54(e), Cyber Security Plan. This paragraph establishes the requirements for a written cyber security plan that outlines the licensee's implementation of their program to include incident response and recovery, detection, response, mitigation, vulnerabilities, and restoration. The plan must describe how the Commission requirements of this section are implemented and must account for site-specific conditions that affect implementation. Applicants for combined license under part 52 of this chapter should have sufficient information available to prepare and submit a plan as required by § 52.79. Such plans will likely require updates and revisions in accordance with § 50.54(p) as digital networks and systems are better defined during a plant's specific design and construction. The rule requires that the cyber security incident response and recovery measures will be part of the cyber security plan.

Section 73.54(f), Policies and Procedures. This paragraph establishes requirements for licensees to have and maintain written policies and procedures for the implementation of the cyber security plan. The Commission does not intend for licensees to submit policies, implementing procedures, site-specific analysis, and other supporting technical information used by the licensee in development of their cyber security plan; however, such information must be made available upon request by an authorized representative of the NRC.

Section 73.54(g), Reviews. This paragraph establishes the licensee review requirements for the cyber security program. The rule requires that the cyber security program be reviewed by the licensee on a periodic basis in accordance with § 73.55(m).

Section 73.54(h), Records. This paragraph establishes record retention requirements for the cyber security program. The rule requires that each licensee will retain the technical information associated with the assets identified by § 73.54(b)(1) pertinent to compliance with § 73.54.

J. Section 73.55, Requirements for Physical Protection of Licensed Activities in Nuclear Power Reactors Against Radiological Sabotage

Section 73.55(a), Introduction. This paragraph outlines the implementation, plans, program, scope and applicability of this section. The rule requires that each licensee shall evaluate the security plan changes needed to comply with the amended requirements of the final rule. Licensees are expected to make any changes necessary to comply with the final rule by March 31, 2010. It is up to the licensee to determine the appropriate mechanism to make those changes whether it be as a change under § 50.54(p) or as a license amendment pursuant to § 50.90. As noted earlier, it is the Commission's view that current licensees are largely already in compliance with the requirements in this rule, and any changes that would be

necessitated by this final rule would not decrease the effectiveness of current licensee security plans, so in most instances a change under § 50.54(p) would be appropriate. However, the Commission also acknowledges that, based on site-specific conditions, a limited number of plan changes might require Commission review and approval before implementation. In such instances, licensees would be expected to submit security plan changes through license amendments or requests for exemptions under § 73.5. With respect to applicants who have already submitted an application to the Commission for an operating license or combined license as of the effective date of this rule, those applicants are required to amend their applications to the extent necessary to address the requirements in this section.

Licensees are responsible for maintaining physical protection in accordance with Commission regulations through the approved security plans. Any departures from the Commission's regulations must be specifically approved by the Commission in accordance with §§ 73.55(r) or 73.5. Upon the Commission's written approval, the approved alternative measure or exemption becomes legally binding as a license condition in lieu of the specific 10 CFR requirement.

This paragraph establishes when an applicant's physical protection program must be implemented. The receipt of special nuclear material (SNM) in the form of fuel assemblies onsite, (*i.e.* , within the licensee's protected area) is the event that subjects a licensee or applicant to the requirements of this rule, and it is the responsibility of the applicant or licensee to complete the preliminary and preparatory actions required to implement an effective physical protection program at the time SNM is received onsite (within the protected area).

Section 73.55(b), General Performance Objective and Requirements. This paragraph outlines the general performance objective and design requirements of the licensee physical protection program. Licensees are required to provide protection against the design basis threat of radiological sabotage. To accomplish this, the physical protection program is designed to prevent significant core damage and spent fuel sabotage. Significant core damage and spent fuel sabotage can be measured through accepted engineering standards, and provide measurable performance criteria that are essential to understanding the definition of radiological sabotage. The design requirement of this section also requires licensees to conduct a site-specific analysis that accounts for site conditions and utilizes the integration of systems, technologies, programs, equipment, supporting processes, and implementing procedures. The physical protection program is supported by the access authorization, cyber security, and insider mitigation programs to meet the performance object of this section. The effectiveness of the physical protection program specific to the licensee protective strategy is measured through implementation of the performance evaluation program.

Section 73.55(c), Security plans. This paragraph outlines the requirements for, contents of, and protection of security plans and implementing procedures. The primary focus of the security plans is to describe how the licensee will satisfy Commission requirements to include how site-specific conditions affect the measures needed at each site to ensure that the physical protection program is effective. Security plans include the physical security plan, training and qualification plan, safeguards contingency plan, and cyber security plan. The cyber security plan is subject to the same review and approval process as the physical security plan, training and qualification plan, and safeguards contingency plan.

Section 73.55(d), Security Organization. This paragraph outlines the requirements for the composition, equipping, and training of the security organization. The intent is that the security organization will focus upon the effective implementation of the physical protection program. Individuals assigned to perform physical protection or contingency response duties must be trained, equipped, and qualified in accordance with appendix B to perform those assigned duties and responsibilities whether that individual is a member of the security organization or not. The rule requires that facility personnel, who are not members of the security organization, will be trained and qualified for the specific physical protection duties that they are assigned which includes possessing the knowledge, skills, abilities, and the minimum physical qualifications.

Section 73.55(e), Physical Barriers. This paragraph outlines the generic and specific requirements for the design, construction, placement, and function of physical barriers. Physical barriers are used to fulfill many functions within the physical protection program, and therefore, each physical barrier must be designed and constructed to serve its predetermined function within the physical protection program. The rule requires that each licensee will analyze site-specific conditions to determine the specific use, type, function, construction, location, and placement of physical barriers needed for the implementation of the physical protection program. This paragraph also describes the requirements to maintain the integrity of physical barriers through the implementation of maintenance and observation measures.

Section 73.55(f), Target Sets. This paragraph provides requirements for the development, documentation, and periodic re-evaluation of target sets. Target sets are a minimum combination of equipment or operator actions which, if prevented from performing their intended safety function or prevented from being accomplished, would likely result in significant core damage (*e.g.* , non-incipient, non-localized fuel melting, and/or core destruction) or a loss of coolant and exposure of spent fuel barring extraordinary actions by plant operators. Credit for operator actions will be given only if the following criteria are met: (1) sufficient time is available to implement these actions, (2) environmental conditions allow access where needed, (3) adversary interference is precluded, (4) any equipment needed to complete these actions is available and ready for use, (5) approved procedures exist which have entering conditions outside of severe accident mitigation guidelines (SAMG) or equivalent, and (6) training is conducted on the existing procedures under conditions similar to the scenario assumed. This rule requires each licensee to implement a process for the oversight of target set equipment, systems, and configurations using existing processes. This ensures that changes made to the configuration of target set equipment and modes of operation are considered in the licensee's protective strategy. Target set requirements include consideration of the effects of cyber attacks and is consistent with Commission requirements for protection against the design basis threat of radiological sabotage stated in § 73.1.

Section 73.55(g), Access Controls. This paragraph outlines the requirements regarding access control systems, devices, processes, and procedures for personnel, vehicles, and materials during normal and emergency conditions. Access controls relative to the owner controlled area, protected area, and vital areas are specifically addressed within this paragraph including visitor and escort requirements. The rule requires that the licensee will ensure that all access

controls are performing as intended and have not been compromised such that no person, vehicle, or material is able to gain unauthorized access beyond a barrier.

With regard to escorts, the rule requires that all escorts will be trained to perform escort duties and that this training may be accomplished through existing processes, such as the General Employee Training (personnel escort) and/or the security Training and Qualification Plan (vehicle escorts). Personnel escorts are required to maintain timely communication with the security organization when performing escort duties to summon assistance if needed. Vehicle escorts are required to maintain continuous communication with the security organization when performing escort duties to summon assistance if needed.

Section 73.55(h), Search Programs. This paragraph prescribes the search requirements of personnel, vehicles, and materials before granting access to the owner controlled and protected areas during normal and emergency conditions. The rule requires that a general description of the broad categories of material that will be excepted will be stated in the licensee security plans with detailed descriptions being identified in implementation procedures.

Section 73.55(i), Detection and Assessment Systems. This paragraph delineates the requirements for detection and assessment for operating reactors and applicants as applied to the physical protection program. Detection and assessment are addressed together as a consequence of their importance for ensuring that an adequate response can be initiated and completed as a result of an alarm or through surveillance observation and monitoring by security personnel. Alarm stations are required to possess the equipment needed for detection, assessment, and communication or otherwise implement the protective strategy and maintain these capabilities through uninterruptible and secondary power sources. In addition, the survivability requirements for alarm stations pertaining to a single act within the capabilities of the design basis threat are addressed in this paragraph. The requirement to construct, locate, protect, and equip both the central and secondary alarm stations is applicable to only applicants for an operating or combined license that is issued after the effective date of this final rule. The rule requires that both alarms stations at future facilities will be equal and redundant.

Section 73.55(j), Communication Requirements. This paragraph stipulates the communication requirements for the security organization during normal and emergency conditions. The rule requires that the licensee security organization possesses and maintains the capability for continuous communication with internal security personnel, vehicle escorts, local law enforcement authorities, and the control room.

Section 73.55(k), Response Requirements. This paragraph outlines the provisions regarding the security response organization's structure, liaison with local law enforcement authorities, and measures to increase the security posture under heightened threat conditions. The rule requires that each licensee will determine the specific minimum number of armed responders and armed security officers needed to protect their facility and will document this minimum number in security plans. The threat warning system is intended to provide pre-planned enhancements to the licensee physical protection program to be taken upon notification by the NRC of a heightened threat. The specific details regarding response requirements are addressed in appendix C of this part.

Section 73.55(l), Facilities Using Mixed-Oxide (MOX) Fuel Assemblies Containing Up to 20 Weight Percent Plutonium Dioxide (PuO_2). This paragraph establishes the requirements for the physical protection of MOX used at nuclear power reactor facilities in addition to the physical protection program requirements addressed by this section. These protective measures are necessary to account for the type of special nuclear material contained in MOX fuel assemblies. These additional requirements include measures for the search and inspection of MOX fuel assemblies, storage MOX fuel assemblies, material control and accounting, and controls for the use of fuel handling equipment used for the movement of MOX fuel assemblies.

Section 73.55(m), Security Program Reviews. This paragraph establishes requirements for the licensee's review of its physical protection programs. The rule requires that each licensee will review the physical protection program, in its entirety, at least every 24 months or less when significant changes are made. The conduct of reviews, to include audits is intended to provide a level of assurance that each element of the physical protection program is performing as intended to satisfy Commission requirements. Reviews also ensure that any changes to site specific conditions do not adversely impact the capability of a given element to perform the intended function within the physical protection program.

Section 73.55(n), Maintenance, Testing, and Calibration. This paragraph establishes requirements for the maintenance, testing, and calibration security equipment required to implement the physical protection program. The rule requires that each licensee will perform maintenance, testing, and calibration activities at intervals required to ensure the equipment is operating as intended. The conduct of maintenance, testing, and calibration activities is intended to provide a level of assurance that security equipment is performing within acceptable parameters established to support the physical protection program and satisfy Commission requirements. Specific intervals for maintenance, testing, and calibration are determined by the NRC and manufacturer specifications.

Section 73.55(o), Compensatory Measures. This paragraph establishes requirements for the actions to be taken by a licensee in response to a failure or degradation of security equipment to perform intended functions within the physical protection program. The rule requires that the licensee will identify conditions where security equipment has failed or is not operating as required and initiates timely actions that ensure the failure or degradation cannot be exploited.

Section 73.55(p), Suspension of Security Measures. This paragraph establishes requirements for the suspension of security measures in response to emergency and extraordinary conditions. Section 73.55(p)(1)(i) represents no change from the previous suspension provision that was described in former § 73.55(a). The requirements of this paragraph are intended to provide flexibility to a licensee for taking reasonable actions that depart from an approved security plan in an emergency when such actions are immediately needed to protect the public health and safety and no action consistent with license conditions and technical specifications that can provide adequate or equivalent protection is immediately apparent in accordance with § 50.54(x) and (y). Therefore, the focus of § 73.55(p)(1)(i) is on the suspension of security measures for the protection of the public health and safety.

In contrast, § 73.55(p)(1)(ii) has been added to provide similar flexibility for situations, such as during severe weather incidents like hurricanes, tornados, or floods when these actions are immediately needed to protect the personal health and safety of security

force personnel when no action consistent with the license condition is immediately apparent. Formerly, suspensions of security measures to protect security force personnel during severe weather incidents would not have been permitted by the regulations. However, the same control mechanisms apply to suspension invoked under § 73.55(p)(1)(ii) as described in § 50.54(y), including approval of, at a minimum, a licensed senior operator.

Section 73.55(q), Records. This paragraph establishes requirements for the retention of documentation (reports, records, and documents) associated with licensee actions to satisfy Commission requirements.

Section 73.55(r), Alternative Measures. This paragraph establishes provisions that allow the licensee the ability to develop measures for the protection against radiological sabotage other than those specifically stated in Commission requirements. Licensee requests to employ such alternative measures must be submitted to the Commission for review and approval as a license amendment in accordance with § 50.90.

K. Section 73.56, Personnel Access Authorization Requirements for Nuclear Power Plants

Section 73.56 (a), Introduction. This paragraph outlines the implementation, scope and applicability of the access authorization program and requires that this program be described in the licensee's physical security plan. Current licensees must be in compliance with the requirements described in this rule by March 31, 2010, including updating their site-specific security plans as applicable. Current licensees should update their plans using one of the processes described in 10 CFR 50.54(p), 10 CFR 50.90, or 10 CFR 73.5 as applicable. In addition, current applicants for an operating license or combined license as of the effective date of this rule must update their applications, as appropriate, to address the requirements of this section. Section 73.56 retains the intent of the pre-existing requirements that licensees have the authority to grant or deny an individual unescorted access, certify or deny an individual unescorted access authorization, or permit an individual to maintain or terminate unescorted access or unescorted access authorization. Additionally, the Commission allows applicants to certify or deny an individual unescorted access authorization status prior to receiving its operating license under part 50 of this chapter or before the Commission makes its finding under 10 CFR 52.103(g).

A licensee or applicant may allow a contractor or vendor to maintain certain elements of the licensee's or applicant's access authorization program if the contractor or vendor complies with the requirements of this section. Additionally, a licensee or applicant may permit a contractor or vendor to maintain an individual's unescorted access authorization status if the contractor's or vendor's access authorization program includes the licensee's or applicant's approved behavioral observation program. However, licensees and applicants are responsible for meeting all of the requirements set forth in this section before granting an individual unescorted access or certifying an individual unescorted access authorization.

Applicants for an operating license or a combined license must incorporate their access authorization program in their physical security plan and implement the access authorization program before the receipt of special nuclear material in the form of fuel assemblies on site (*i.e.*, within the licensee's protected area.)

Section 73.56(b), Individuals Subject to the Access Authorization Program. This paragraph identifies individuals who shall be subject to the requirements of an access authorization program to ensure that each person granted unescorted access and/or certified unescorted access authorization is trustworthy and reliable. The rule requires that any individual who has unescorted access to nuclear power plant protected and vital areas shall be subject to an access authorization program that meets the requirements of this section.

Section 73.56(c), General Performance Objective. This paragraph stipulates that the licensee's or applicant's access authorization program must provide high assurance that the individuals subject to this section are trustworthy and reliable such that they do not constitute an unreasonable risk to public health and safety or the common defense and security including the potential to commit radiological sabotage.

Section 73.56(d), Background Investigation. This paragraph outlines the responsibilities and elements of the background investigation process including consent; personal, employment, credit, and criminal history; identity verification; and character evaluation. As addressed with respect to § 73.56(h)(5) and (h)(6), the Commission permits licensees and applicants to meet the requirements of this section by relying on certain background investigation elements, psychological assessments, and behavioral observation training conducted by other licensees, applicants, or contractor access programs.

This provision reduces regulatory burden by eliminating the need to replicate access authorization program elements that are still current according to the time conditions specified in §§ 73.56(h) and (i)(1).

Additionally, this paragraph requires individuals to disclose personal history information pertaining to the access authorization program and associated processes and requires licensees, applicants, and contractors or vendors to take steps to access information from reliable sources to ensure that the personal identifying information the individual has provided is authentic and accurate.

The rule requires licensees, applicants, and contractors or vendors to make available and disclose information that they have collected if contacted by another licensee, applicant, or contractor or vendor who has a release signed by the individual who is applying for unescorted access or unescorted access authorization.

Section 149 of the AEA provides the Commission authority to require individuals to be fingerprinted and to obtain the FBI criminal history records of only those individuals who are seeking unescorted access to protected or vital areas of a nuclear power plant. For other individuals, the Commission expects licensees and applicants to obtain those individual's criminal records in accordance with requirements set forth in § 73.56(k)(1)(ii).

Section 73.56(e), Psychological Assessment. This paragraph outlines requirements within the access authorization program for conducting psychological assessments on individuals seeking unescorted access or unescorted access authorization. The purpose of the paragraph is to evaluate the implications of an individual's psychological character on his or her trustworthiness and reliability. The rule requires that Individuals who are applying for initial unescorted access or unescorted access authorization, or who have not maintained unescorted access or unescorted access authorization for greater than 365 days, be subjected to a psychological assessment.

This paragraph establishes requirements, standards, roles, and responsibilities for individuals who perform psychological assessments. A

licensed psychologist or psychiatrist with proper clinical training and experience must conduct the psychological assessment in accordance with the American Psychological Association or the American Psychiatric Association standards. This paragraph establishes the responsibilities of those conducting psychological assessments to report the discovery of any information, including a medical condition, which could adversely impact the fitness for duty or trustworthiness and reliability of the individual being accessed.

Section 73.56(f), Behavioral Observation. This paragraph outlines the roles and responsibilities of licensees, applicants, contractors, vendors, and individuals under the behavioral observation program. The purpose of the behavioral observation program is to increase the likelihood that potentially adverse behavior patterns and actions are detected, communicated, and evaluated before there is an opportunity for such behavior patterns or acts to result in detrimental consequences. The rule requires individuals under this program to be trained to identify and report questionable behavior patterns or activities to his or her supervisor, other management personnel, or the reviewing official as designated in site procedures and that this report be promptly conveyed to the reviewing official for evaluation.

Section 73.56(g), Self-Reporting of Legal Actions. This paragraph outlines the responsibilities for individuals to self-report legal actions taken by a law enforcement authority or court of law to which the individual has been subject that could result in incarceration or a court order or that requires a court appearance. This paragraph requires the recipient of the report, if the recipient is not the reviewing official, to promptly convey the report to the reviewing official who will then evaluate the implications of those actions with respect to the individual's trustworthiness and reliability.

Section 73.56(h), Granting Unescorted Access and Certifying Unescorted Access Authorization. This paragraph defines the regulatory standard that must be used by a licensee or applicant for a determination of granting or certifying unescorted access or unescorted access authorization as well as for reinstatement of unescorted access or unescorted access authorization. The requirements in this paragraph, in part, are based upon whether an individual has previously been granted unescorted access or certified unescorted access authorization under a program subject to the requirements of § 73.56 and the elapsed time since the individual's unescorted access or unescorted access authorization status was last favorably terminated. Additionally, this paragraph provides requirements for re-establishing trustworthiness and reliability of those individuals whose unescorted access or unescorted access authorization was denied or terminated unfavorably. Sections 73.56(h)(5) and (6) permit licensees and applicants to rely on other access authorization programs that meet the requirements of this section. In addition, these provisions eliminate redundancies in the steps required for granting unescorted access or certifying unescorted access authorization or maintaining unescorted access or unescorted access authorization.

Section 73.56(i), Maintaining Unescorted Access or Unescorted Access Authorization. This paragraph delineates the conditions and requirements for maintaining unescorted access or unescorted access authorization status. Important elements of maintaining unescorted access or unescorted access authorization status are the behavioral observation program, the reevaluation of criminal history and credit history, and, for select individuals who perform specific job functions identified in § 73.56(i)(1)(B), a psychological assessment.

To confirm each individual's continued trustworthiness and reliability determination, the rule requires licensees and applicants to conduct updates and reevaluations every five (5) years for individuals granted unescorted access or certified unescorted access authorization and every three (3) years for selected individuals. For selected individuals, the rule requires licensees and applicants to conduct psychological reassessments every five (5) years. Additionally, all individuals are required to be subject to the licensee's behavioral observation program on a daily basis to detect an individual's abnormal emotional and/or psychological state through monitoring and/or supervisory evaluation.

Section 73.56(j), Access to Vital Areas. This paragraph requires that access to vital areas be controlled through the use of access authorization lists to ensure that no one may enter these vital areas without having a work-related need and, when the need no longer exists, access to the vital areas is terminated.

The rule requires that access authorization lists will be updated at least every 31 days to minimize insider threats by ensuring that personnel listed have a continued need to access vital areas to perform their official duties and not just a possibility of needing access sometime in the future.

Section 73.56(k), Background Screeners. This paragraph outlines requirements to ensure that individuals who collect, process, or have access to sensitive personal information required under this section are trustworthy and reliable.

Background checks for these individuals must be conducted in accordance with the requirements of this paragraph. The Commission recognizes that licensees and applicants may not, under Section 149 of the AEA, obtain a fingerprint-based FBI criminal history records check for an individual who does not have or is not expected to have unescorted access. In such cases, local criminal history information about the individual will be obtained from the State or local court system to satisfy this requirement.

Section 73.56(l), Review Procedures. This paragraph outlines requirements for responding to an individual's request for review of a determination to deny unescorted access or unescorted access authorization or unfavorable termination of an individual's unescorted access or unescorted access authorization.

Section 73.56(m), Protection of Information. This paragraph outlines requirements for the protection and release of personal information collected by a licensee, applicant, contractor, or vendor to authorized personnel. The rule requires that the licensee, applicant, contractor, or vendor possessing personal records will promptly provide personal information as authorized by the individual's signed consent. This may include an individual's representative and other licensees or applicants. With regard to revealing the sources of the information, the rule requires that licensees, applicants, contractors, and vendors will maintain confidentiality of sources.

Section 73.56(n), Audits and Corrective Action. This paragraph outlines requirements for audits and corrective action to confirm compliance with the requirements of this section and that comprehensive corrective actions are taken in response to any violations of the requirements of this section identified from an audit. The rule requires that licensees and applicants will perform an audit of their access authorization program at intervals nominally every 24 months. With regard to § 73.56(n)(1), the Commission uses the term ''nominally'' which allows a 25 percent margin

consistent with the definition of nominal in § 26.5, which provides limited flexibility in meeting the scheduled due date for completing this recurrent activity. Completing a recurrent activity at a nominal frequency means that the activity may be completed within a period that is 25 percent longer (30 months) or shorter (18 months) than the period required, with the next scheduled due date no later than the current scheduled due date plus the required frequency for completing the activity.

With regard to the independence of audit team members, the rule requires that at least one person on an audit team possess the requisite knowledge to evaluate the holistic implications of individual requirements or the complexities associated with meeting the final rule's performance objective and, therefore, can adequately evaluate program effectiveness and is independent of management having responsibility for day-to-day operation of the access authorization program.

In regard to § 73.56(n)(7), the rule permits licensees and other entities to jointly conduct audits as well as to rely on one another's audits, if the audits upon which they are relying address the services obtained from the contractor or vendor by each of the sharing licensees or applicants. The rule requires that licensees, applicants, and contractors or vendors relying on a shared audit to ensure that all services and elements upon which they rely have been adequately audited and to make clear that the licensees, applicants, and contractors or vendors are responsible for ensuring that an adequate audit is conducted of any services or elements upon which they rely that are not adequately covered by the shared audit.

Section 73.56(o), Records. This paragraph outlines requirements for the retention, storage, and protection of records required by this section. Licensees, applicants, contractors, and vendors must retain, store, and protect records to ensure their availability and integrity. In addition, this paragraph provides requirements for how long the licensee shall retain these records according to the type of record or until the completion of legal proceedings that may arise as a result of an adjudication of an application for unescorted access, whichever is later. These requirements also allow contractors and vendors to retain records for which they are responsible. Upon termination of a contract between a contractor and a licensee or applicant, the licensee or applicant must retrieve all relevant records that were accumulated by the contractor throughout the period of the contract. The rule requires that corrected or new information will be actively communicated by the recipient to other licensees.

L. Section 73.58, Safety/Security Interface Requirements for Nuclear Power Reactors

Section 73.58 is a new requirement added to part 73. This requirement makes explicit, what was previously implicitly required by the regulations including that plant activities should not adversely affect security activities and that security activities should not adversely affect plant safety (otherwise licensees would fail to comply with the governing requirements in the applicable area). The new section is added as a cost-justified, safety enhancement per § 50.109(a)(3). As discussed previously in Section II of this document, the new requirements were developed in response to a petition for rulemaking (PRM–50–80) submitted by the Union of Concerned Scientists and the San Luis Obispo Mothers for Peace that requested, in part, that the Commission promulgate requirements for licensees to evaluate proposed changes, tests, or experiments to determine whether such changes cause a decrease in the protection against radiological sabotage and to require prior Commission approval for such situations. Additionally, it stems from the Commission's comprehensive review of its safeguards and security programs and requirements and from the Commission's awareness that the increased complexity of licensee security measures now required in the post September 11, 2001, security environment could potentially increase adverse interactions between safety and security. Additionally, it is based on plant events discussed in Commission Information Notice 2005–33, ''Managing the Safety/Security Interface,'' that demonstrated that changes made to a facility, its security plan, or implementation of the plan can have adverse effects if the changes are not adequately assessed and managed. The regulations, prior to § 73.58, did not explicitly require communication about the implementation and timing of facility changes. The Commission believes that § 73.58 promotes an increased awareness of the effects of changing conditions and results in appropriate assessment and response.

The introductory text indicates this section applies to power reactors licensed under 10 CFR parts 50 or 52. Paragraph (b) of this section requires licensees to assess proposed changes to plant configurations, facility conditions, or security to identify potential adverse effects on the capability of the licensee to maintain either safety or security before implementing those changes. The assessment would be qualitative or quantitative. If a potential adverse effect is identified, the licensee is required to take appropriate measures to manage the potential adverse effect. Managing the potential adverse effect is further described in paragraph (d). The requirements of § 73.58 are in addition to requirements to assess proposed changes and to manage potential adverse effects contained in other Commission regulations, and are not intended to substitute for them. The Commission recognizes that implementation of § 73.58 would rely to some extent on these existing programs that manage facility changes and configuration, and expects licensees to incorporate § 73.58 into this structure. The primary function of this rule is to explicitly require that licensees consider the potential for changes to cause adverse interaction between security and safety and to appropriately manage any adverse results. Documentation of assessments performed per paragraph (b) is not required so as not to delay plant or security actions unnecessarily.

Section 73.58(c) requires changes identified by either planned or emergent activities to be assessed by the licensee. This requirement is not intended to require licensees to assess all the day-to-day activities that are controlled by facility work processes and configuration management processes. The Commission expects that licensees would instead revise these processes to preclude, to the extent practicable, potential adverse interactions. Paragraph (c) of this section provides a description of typical activities for which changes must be assessed and for which resultant adverse interactions must be managed.

Section 73.58(d) requires that, when potential adverse interactions are identified, licensees communicate the potential adverse interactions to appropriate licensee personnel. The licensee is also required to take appropriate compensatory and mitigative actions to maintain safety and security consistent with the applicable Commission requirements. The compensatory and/or mitigative actions taken must be consistent with existing requirements for the affected activity.

M. Part 73, Appendix B, General Criteria for Protection

The title of this appendix reflects training and qualification requirements for the members of the security organization and other facility personnel who perform security related

duties at a nuclear power reactor facility. The rule requires that individuals who perform security functions are trained and qualified prior to performing security-related duties and the training and qualification is documented.

Part 73, Appendix B, Section VI.A, General Requirements and Introduction. This paragraph highlights the minimum employment suitability and training and qualification program requirements for individuals selected to perform security related functions. All individuals who perform physical protection and/or contingency response duties within the security program must meet the minimum training and qualification requirements for their assigned duties as specified within this appendix and the Commission approved training and qualification plan. The word ''individuals'' is used to identify members of the security organization and those facility personnel who are assigned to perform physical protection or contingency response duties within the security program. Facility personnel performing physical protection duties need only meet the minimum training and qualification requirements specified within this appendix and the Commission approved training and qualification plan for the specific duty assigned. Where requirements under this appendix specifically apply to members of the security organization the language explicitly identifies this applicability.

Part 73, Appendix B, Section VI.B, Employment Suitability and Qualification. This paragraph outlines the minimum criteria that must be evaluated by licensees for individuals being considered for and performing security-related duties. The minimum criteria include education, criminal history, and physical and psychological standards.

The physical standards associated with this paragraph reflect the basic physical requirements that ensure an individual possesses the standard acuity levels associated with vision and hearing and that the individual does not have a medical condition that is detrimental to the individual's health or the performance of assigned duties. The standards posed are applicable to all individuals who are assigned to perform physical protection or contingency response duties within the security program, to include non-security personnel assigned to perform physical protection duties (such as vehicle escort or material search). A licensed medical professional is required to conduct a medical examination before the assignment of individuals to perform security duties and/or the physical fitness test being administered.

The physical fitness test, which is required for armed individuals implementing the contingency response plan, is a performance-based test that must be designed to demonstrate an individual's physical ability to perform assigned security duties during contingency events. Before engaging in the physical fitness test, the individual's current health status must be verified by the licensee. The licensee is also required to confirm that there are no existing medical conditions which would be detrimental to the individual's health when placed under the physical stress induced by the physical fitness test. The licensed medical professional provides a certification of the individual's health before the test, but is not required to administer the physical fitness test or document or attest to the successful completion of the test. Scheduling the physical fitness test for each armed individual as soon as possible after the date of the physical examination required by paragraph B.2.a(2) minimizes the possibility of the individual incurring a medical condition from the time of examination to the time that the physical fitness test is administered.

The Commission recognized that the proposed suitability requirements for security personnel found in appendix B to part 73, criterion VI.B.1, were not inclusive of the disqualifying criteria found under the Gun Control Act of 1968 (GCA) (see 18 U.S.C. 922(g) and (n)). This section describes a licensee's obligations to take those prohibitions into account prior to permitting an individual to serve as an armed security officer.

The rule requires that a qualified training instructor is responsible for the final documentation of each security critical task qualification that is performed by individuals who are assigned physical protection and/or contingency response duties within the security program. This paragraph also enables members of the security organization who are medically disqualified from performing contingency response duties or specific physical protection duties for a period of time, to perform other physical protection duties that would not be affected by the medical disqualification.

Part 73, Appendix B, Section VI.C, Duty Training. This paragraph outlines duty training and on-the-job training requirements and focuses on the knowledge, skills, and abilities needed by individuals selected to perform security duties. On the job training for daily security duties may be conducted as a part of basic qualification training that provides the individual with the basic knowledge, skills and abilities of assigned securities duties. In addition to the on-the-job training previously described, this paragraph describes the development and implementation of 40 hours of on-the-job training to train the security force in the response to contingency events. It also captures both the scope of conducting tactical response drills and force-on-force exercises as well as the importance of individual performance by the members of the security response organization. The requirement is added to ensure that individuals implementing the safeguards contingency plan possess first-hand knowledge of individual and team response duties in accordance with the licensee protective strategy.

Part 73, Appendix B, Section VI.C.3, Performance Evaluation Program. This paragraph outlines the establishment of the performance evaluation program including individual and group requirements for security personnel participation. The Commission's intent is that the licensee's performance evaluation program be evaluated during the conduct of NRC security baseline inspections including force-on-force evaluations. The rule allows force-on-force exercises conducted to satisfy the NRC triennial evaluation requirement to be used to satisfy the annual force-on-force requirement for the personnel that participate in the capacity of the security response organization.

Part 73, Appendix B, Section VI.D, Duty Qualification and Re-qualification. This paragraph outlines the qualification, re-qualification, and periodicity requirements for armed and unarmed individuals performing security duties. The rule requires that qualifications include written exams, hands-on performance demonstrations, and annual written exams where applicable.

Part 73, Appendix B, Section VI.E, Weapons Training. This paragraph outlines the requirements for firearms training, firearms instructor qualifications, firearms familiarization training, training program elements, deadly force instruction, and weapons training periodicity. The Commission's intent is to make generically applicable requirements similar to those that were contained in the 2003 training and qualification order (EA–03–039) and experience gained through security program inspections and observations and to apply language consistent with the professional firearms community more accurately. Additionally, a list of common firearms practices are provided to ensure appropriate weapons training

and qualification, safe handling, and operations are achieved.

Part 73, Appendix B, Section VI.F, Weapons Qualification and Requalification Program. This paragraph outlines the requirements for general and tactical weapons qualification, the types of qualification courses, courses of fire, and firearms requalification. These requirements are substantially similar to the weapons proficiency requirements that were stipulated in the 2002 training and qualification order and the commonly-accepted minimum qualification scores found in the firearms training community for shotguns, hand guns, semi-automatic and/or enhanced weapons during both day and night courses of fire.

Part 73, Appendix B, Section VI.G, Weapons, Personal Equipment, and Maintenance. This paragraph outlines the weapons, as well as required and optional personal equipment, for individuals performing security-related duties. The rule requires that the equipment required by paragraph G.2.b be readily accessible. The Commission does not intend that the required equipment necessarily be carried or worn but intends that it be readily available should the security officer choose to wear it during a safeguards contingency event. The Commission's intent is that the optional equipment listed in paragraph G.2.c be considered for implementation consistent with the licensee's protective strategy. The paragraph also discusses the weapons maintenance program and certified armorer requirements. The armorer must be certified by the weapons manufacturer (or a contractor working on behalf of the manufacturer) to perform maintenance and repair of licensee firearms. Licensees may use a manufacturer's armorer and certification process or use a contractor certified by the manufacturer as an armorer to perform maintenance and repair of licensee firearms.

Part 73, Appendix B, Section VI.H, Records. This paragraph outlines the documentation and records retention requirements for security-related training. The Commission's intent is to be consistent with the record keeping and documentation requirements set forth in § 73.55(r).

Part 73, Appendix B, Section VI.I, Reviews. This paragraph outlines the required reviews of security-related training as set forth in § 73.55(n).

Part 73, Appendix B, Section VI.J, Definitions. This paragraph is consistent with the terms and definitions outlined in parts 50, 70, and 73.

N. Part 73, Appendix C, Section II, Nuclear Power Plant Safeguards Contingency Plans

This section is revised to address nuclear power reactor safeguards contingency plan requirements without impacting other licensees who are also required to maintain safeguards contingency plans (SCP).

Part 73, Appendix C, Section II.A Introduction. This paragraph describes the content of the SCP for nuclear power reactors. Licensees must complete the coordination of the predetermined security force actions and non-security response efforts to ensure that the predetermined actions of the security force can be effectively implemented without conflict with the actions of other onsite or offsite support agencies responding to a safeguards contingency event. The scope of the SCP is specific to the security organization. However, the safeguards contingency plan must be integrated with other onsite and offsite response plans and procedures. It is not the Commission's intent for the security organization to be responsible for the integrated response plan but rather to ensure coordination with the integrated response plan and other licensee organizational elements.

Part 73, Appendix C, Section II.B, Contents of the Plan. This paragraph specifies the categories of information required in a safeguards contingency plan to be consistent with and complement the requirements of § 50.34(d). The intent is to build a common approach to documenting SCP requirements and to improve the usefulness and applicability of the SCP, and to ensure that the SCP is coordinated with non-security response plans. The Commission does not intend that the SCP include the details of other site plans but rather intends to ensure that the licensee has considered these other plans and that potential conflicts have been identified and resolved.

Part 73, Appendix C, Section II.B.1, Background. This category of information requires licensees to identify perceived dangers, purpose, scope, and general information in the development and implementation of the SCP. The intent is to document the types of incidents that the plan covers, goals and objectives of the plan for each event, the physical protection elements that support the plan, and the coordination of response efforts by local law enforcement agencies. The NRC does not intend to expand the security organization's role or responsibilities to encompass the functions of other organizational elements. Planning functions and responsibilities of other licensee organizational elements are addressed in §§ 50.54(gg), 50.47, and part 50, appendix E.

Part 73, Appendix C, Section II.B.2, Generic Planning Base. This category of information establishes the criteria for initiating and terminating responses to safeguards contingency events. The generic planning base must define specific decisions, actions, expectations, and supporting information needed to respond to each type of incident. This requirement focuses on the types of actions or information that will prompt the licensee to initiate and/or terminate response activities as a result of an actual or perceived threat to the facility.

Part 73, Appendix C, Section II.B.3, Licensee Planning Base. This category of information focuses on factors that affect safeguards contingency planning specific to each facility. The licensee planning base must document the site-specific organizational structure of the security response organization, site physical layout considerations, safeguards systems, the protective strategy, law enforcement assistance, policy constraints and assumptions and administrative and logistical considerations that could have bearing on the implementation of the licensee's SCP. While implementing details are appropriate for procedures and need not be included in the SCP, licensees are expected to provide a sufficient level of detail in the SCP for the information to be meaningful. Within this category of information, licensees must document coordination with off-site entities and explain how the level of protection required by § 73.55(b) during safeguards contingency events will be maintained. In addition, licensees must ensure that § 73.58 information regarding safety and security interface is considered in contingency response planning.

Part 73, Appendix C, Section II.B.4, Responsibility Matrix. This category of information documents responsibilities and specific actions to be taken by licensee organizations and/or personnel in response to safeguards contingency events. The responsibility matrix must document who will perform what actions and make what decisions during responses to safeguards contingency events. The licensee SCP's must discuss how the matrix is incorporated into site implementing procedures.

Part 73, Appendix C, Section II.B.5, Implementing Procedures. This category of information provides specific guidance and operating details that identify the actions to be taken and decisions to be made by each member of the security organization who is assigned duties and responsibilities required for the effective

implementation of the SCP. The procedures must reflect detailed information that supports the implementation of the SCP. The implementing procedures must contain the tabulated responsibility matrix that addresses each safeguards contingency event outlined in the licensee's generic planning base.

Part 73, Appendix C, Section II.C, Records and Reviews. This category of information requires licensees to maintain records and to conduct reviews in accordance with the requirements of § 73.55(n).

V. Guidance

The Commission is preparing new regulatory guides that will contain detailed guidance on the implementation of the rule requirements. These regulatory guides, currently under development or already issued in draft form for comment will consolidate and update or eliminate previous guidance that was used to develop, review, and approve the power reactor security plans that licensees revised in response to the post-September 11, 2001, security orders. Development of the regulatory guides is ongoing and the publication of the final regulatory guides is planned shortly after the publication of this final rule. Some of these regulatory guides contain Safeguards Information (SGI) or Official Use Only—Security Related Information (OUO–SRI) and will only be available to those individuals with a need-to-know and who are qualified to have access to SGI or OUO–SRI as applicable. Where appropriate, the requirements in this final rule are adjusted to account for the lack of final guidance (*e.g.*, if the guidance is needed to support a licensee or applicant submittal, then the submittal requirements are adjusted to account for the lack of final guidance).

VI. Criminal Penalties

For the purposes of Section 223 of the Atomic Energy Act of 1954, as amended (AEA), the Commission is amending 10 CFR parts 50, 52, 72, and 73 under Sections 161b, 161i, or 161o of the AEA. Criminal penalties, as they apply to regulations in part 50, are discussed in § 50.111. Criminal penalties, as they apply to regulations in part 52, are discussed in § 52.303. Criminal penalties, as they apply to regulations in part 73, are discussed in § 73.81. The new §§ 50.54(hh), 73.54, and 73.58 are issued under Sections 161b, 161i, or 161o of the AEA, and are not included in § § 50.111, 52.303, and 73.81(b) as applicable.

VII. Availability of Documents

The NRC is making the documents identified below available to interested persons through one or more of the following methods:

Public Document Room (PDR). The NRC Public Document Room is located at 11555 Rockville Pike, Rockville, Maryland.

Regulations.gov (Web). These documents may be viewed and downloaded electronically through the Federal eRulemaking Portal *http://www.Regulations.gov*, Dockets NRC–2006–0016 and NRC–2008–0019.

NRC's Electronic Reading Room (ERR). The NRC's public electronic reading room is located at *www.nrc.gov/reading-rm.html*.

Document	PDR	Web	ERR (ADAMS)
Environmental Assessment	X	X	ML081640161
Regulatory Analysis	X	X	ML083390372
Regulatory Analysis—appendices	X	X	ML081680090
Information Collection Analysis	X	X	ML083530022
Comment Response document	X	X	ML083390333
EA–03–086, "Revised Design Basis Threat Order," issued April 29, 2003 (68 FR 24517; May 7, 2003) [withheld as SGI and not publicly available.]*.	X	X	ML030740002
EA–02–026, (Interim Compensatory Measures (ICM) Order, (issued February 25, 2002 (67 FR 9792; March 4, 2002) [withheld as SGI and not publicly available.]*.	X	X	ML020520754
EA–02–261, (Issuance of Order for Compensatory Measures Related to Access Authorization, (issued January 7, 2003 (68 FR 1643; January 13, 2003) [withheld as SGI and not publicly available.]*.	X	X	ML030060360
EA–03–039, (Issuance of Order for Compensatory Measures Related to Training Enhancements on Tactical and Firearms Proficiency and Physical Fitness Applicable to Armed Nuclear Power Plant Security Force Personnel," issued April 29, 2003 (68 FR 24514; May 7, 2003) [withheld as SGI and not publicly available.]*.	X	X	ML030980015

* The NRC references these documents only for purposes of the backfitting discussion in this rule.

VIII. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Public Law 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless using such a standard is inconsistent with applicable law or is otherwise impractical. The NRC is not aware of any voluntary consensus standard that could be used instead of the regulatory guidance currently under development. The NRC will consider using a voluntary consensus standard if an appropriate standard is identified.

IX. Finding of No Significant Environmental Impact

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR part 51, that this rule is not a major Federal action significantly affecting the quality of the human environment, and therefore, an environmental impact statement is not required.

The determination of this environmental assessment is that there will be no significant offsite impact to the public as a result of this action. The NRC requested comment on the environmental assessment. There were no comments received. Availability of the environmental assessment is provided in section VII of this document.

X. Paperwork Reduction Act Statement

This rule imposes new or amended information collection requirements contained in 10 CFR parts 50, 52, 72, and 73, that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*). These requirements were approved by the Office of Management and Budget, approval numbers 3150–0011, 3150–0151, 3150–0132, and 3150–0002.

The burden to the public for these information collections is estimated to average 4.38 hours per response. This includes the time for reviewing instructions, searching existing data

sources, gathering and maintaining the data needed, and completing and reviewing the information collection. Send comments on any aspect of these information collections, including suggestions for reducing the burden, to the Records and FOIA/Privacy Services Branch (T–5–F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by Internet electronic mail to *INFOCOLLECTS.Resource@NRC.GOV*; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202, (3150–0011; 3150–0151; 3150–0132; and 3150–0002), Office of Management and Budget, Washington, DC 20503 or by internet electronic mail to *Nathan J. Frey@omb.eop.gov.*

XI. Regulatory Analysis

The Commission has prepared a regulatory analysis of this regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. Availability of the regulatory analysis is provided in Section VII of this document.

XII. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the size standards established by the NRC (10 CFR 2.810).

XIII. Backfit Analysis

With regard to the governing criteria in § 50.109, this rulemaking contains two different sets of requirements. The first set of requirements in this rulemaking are requirements similar to those that were previously imposed under one of the following orders issued after September 11, 2001:

- EA–02–026, ''Interim Compensatory Measures (ICM) Order,'' issued February 25, 2002 (March 4, 2002; 67 FR 9792);
- EA–02–261, ''Access Authorization Order,'' issued January 7, 2003 (January 13, 2003; 68 FR 1643);
- EA–03–039, ''Security Personnel Training and Qualification Requirements (Training) Order,'' issued April 29, 2003 (May 7, 2003; 68 FR 24514); and
- EA–03–086, ''Revised Design Basis Threat Order,'' issued April 29, 2003 (May 7, 2003; 68 FR 24517).

For this first set of requirements, the NRC has determined that they are not backfitting as defined by § 50.109(a)(1), and therefore, a backfit analysis is unnecessary for these requirements. Section 50.109(a)(1) defines backfitting as ''the modification or addition to systems, structures, components or design of a facility * * * or the procedures or organization required to design, construct or operate a facility; any of which may result from a new or amended provision in the Commission rules * * *.'' This first set of requirements in the final rule contains numerous requirements substantially similar to those previously imposed by the orders identified above. In some cases, more specific detail may have been provided in this final rule for a particular requirement that corresponds with a requirement that had previously been in an order. The provisions in this first set impose requirements that are substantially similar to those previously imposed to current licensees under the orders and are consistent with the implementing guidance that has been issued to licensees subsequent to the orders. Therefore, the first set of requirements do not constitute backfits as defined by the rule because they would not result in a modification or addition to any systems, structures, components or design of an affected facility, or the procedures or organization required to design, construct, or operate an affected facility. In any event, the Commission has also determined that the requirements represented in this first set are those necessary to ensure that these facilities provide adequate protection to the health and safety of the public and are in accord with common defense and security. Therefore, no backfit analysis has been prepared with respect to these requirements.

The second set of requirements in this rulemaking are additions that do constitute backfits. The NRC evaluated the second set of requirements in the aggregate in accordance with § 50.109 to determine if the costs of implementing the rule would be justified by a substantial increase in public health and safety or common defense and security. The NRC finds that qualitative safety benefits of the provisions that qualify as backfits in this rulemaking, considered in the aggregate, would constitute a substantial increase in protection to public health and safety and the common defense and security and that the costs of this rule would be justified in view of the increase in protection to safety and security provided by the backfits embodied in the proposed rule. The backfit analysis is contained within section 4.2 of the regulatory analysis. Availability of the regulatory analysis is provided in section VII of this document.

XIV. Congressional Review Act

Under the Congressional Review Act of 1996, the NRC has determined that this action is a major rule and has verified this determination with the Office of Information and Regulatory Affairs of the Office of Management and Budget.

List of Subjects

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 52

Administrative practice and procedure, Antitrust, Backfitting, Combined license, Early site permit, Emergency planning, Fees, Inspection, Limited work authorization, Nuclear power plants and reactors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Reporting and recordkeeping requirements, Standard design, Standard design certification.

10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

10 CFR Part 73

Criminal penalties, Export, Hazardous materials transportation, Import, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

■ For the reasons set out in the preamble and under the authority of the AEA, as amended; the Energy Reorganization Act of 1974, as amended; 5 U.S.C. 552 and 5 U.S.C. 553; the NRC is adopting the following amendments to 10 CFR parts 50, 52, 72, and 73.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

■ 1. The authority citation for part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Public Law 109–58, 119 Stat. 194 (2005). Section 50.7 also issued under Public Law 95–601, sec. 10, 92 Stat. 2951 as amended by Public Law 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5841). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Public Law 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and appendix Q also issued under sec. 102, Public Law 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Public Law 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

■ 2. In § 50.34, footnote 9 is removed and reserved, paragraphs (c), (d) and (e) are revised, and paragraph (i) is added to read as follows:

§ 50.34 Contents of construction permit and operating license applications; technical information.

* * * * *

(c) *Physical security plan.* (1) Each applicant for an operating license for a production or utilization facility that will be subject to §§ 73.50 and 73.60 of this chapter must include a physical security plan.

(2) Each applicant for an operating license for a utilization facility that will be subject to the requirements of § 73.55 of this chapter must include a physical security plan, a training and qualification plan in accordance with the criteria set forth in appendix B to part 73 of this chapter, and a cyber security plan in accordance with the criteria set forth in § 73.54 of this chapter.

(3) The physical security plan must describe how the applicant will meet the requirements of part 73 of this chapter (and part 11 of this chapter, if applicable, including the identification and description of jobs as required by § 11.11(a) of this chapter, at the proposed facility). Security plans must list tests, inspections, audits, and other means to be used to demonstrate compliance with the requirements of 10 CFR parts 11 and 73, if applicable.

(d) *Safeguards contingency plan.* (1) Each application for a license to operate a production or utilization facility that will be subject to §§ 73.50 and 73.60 of this chapter must include a licensee safeguards contingency plan in accordance with the criteria set forth in section I of appendix C to part 73 of this chapter. The ''implementation procedures'' required per section I of appendix C to part 73 of this chapter do not have to be submitted to the Commission for approval.

(2) Each application for a license to operate a utilization facility that will be subject to § 73.55 of this chapter must include a licensee safeguards contingency plan in accordance with the criteria set forth in section II of appendix C to part 73 of this chapter. The ''implementing procedures'' required in section II of appendix C to part 73 of this chapter do not have to be submitted to the Commission for approval.

(e) *Protection against unauthorized disclosure.* Each applicant for an operating license for a production or utilization facility, who prepares a physical security plan, a safeguards contingency plan, a training and qualification plan, or a cyber security plan, shall protect the plans and other related Safeguards Information against unauthorized disclosure in accordance with the requirements of § 73.21 of this chapter.

* * * * *

(i) A description and plans for implementation of the guidance and strategies intended to maintain or restore core cooling, containment, and spent fuel pool cooling capabilities under the circumstances associated with the loss of large areas of the plant due to explosions or fire as required by § 50.54(hh)(2) of this chapter.

■ 3. In § 50.54, paragraph (p)(1) is revised and paragraph (hh) is added to read as follows:

§ 50.54 Conditions of licenses.

* * * * *

(p)(1) The licensee shall prepare and maintain safeguards contingency plan procedures in accordance with appendix C of part 73 of this chapter for affecting the actions and decisions contained in the Responsibility Matrix of the safeguards contingency plan. The licensee may not make a change which would decrease the effectiveness of a physical security plan, or guard training and qualification plan, or cyber security plan prepared under § 50.34(c) or § 52.79(a), or part 73 of this chapter, or of the first four categories of information (Background, Generic Planning Base, Licensee Planning Base, Responsibility Matrix) contained in a licensee safeguards contingency plan prepared under § 50.34(d) or § 52.79(a), or part 73 of this chapter, as applicable, without prior approval of the Commission. A licensee desiring to make such a change shall submit an application for amendment to the licensee's license under § 50.90.

* * * * *

(hh) (1) Each licensee shall develop, implement and maintain procedures that describe how the licensee will address the following areas if the licensee is notified of a potential aircraft threat:

(i) Verification of the authenticity of threat notifications;

(ii) Maintenance of continuous communication with threat notification sources;

(iii) Contacting all onsite personnel and applicable offsite response organizations;

(iv) Onsite actions necessary to enhance the capability of the facility to mitigate the consequences of an aircraft impact;

(v) Measures to reduce visual discrimination of the site relative to its surroundings or individual buildings within the protected area;

(vi) Dispersal of equipment and personnel, as well as rapid entry into site protected areas for essential onsite personnel and offsite responders who are necessary to mitigate the event; and

(vii) Recall of site personnel.

(2) Each licensee shall develop and implement guidance and strategies intended to maintain or restore core cooling, containment, and spent fuel pool cooling capabilities under the circumstances associated with loss of large areas of the plant due to explosions or fire, to include strategies in the following areas:

(i) Fire fighting;

(ii) Operations to mitigate fuel damage; and

(iii) Actions to minimize radiological release.

(3) This section does not apply to a nuclear power plant for which the certifications required under § 50.82(a) or § 52.110(a)(1) of this chapter have been submitted.

PART 52—LICENSES, CERTIFICATIONS, AND APPROVALS FOR NUCLEAR POWER PLANTS

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

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2133, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note), Energy Policy Act of 2005, Public Law No. 109–58, 119 Stat. 594 (2005).

■ 5. In § 52.79, paragraphs (a)(36)(iii) and (iv) are redesignated as paragraphs (a)(36)(iv) and (v), respectively, and revised, and a new paragraph (a)(36)(iii) is added to read as follows:

§ 52.79 Contents of applications; technical information in final safety analysis report.

(a) * * *

(36) * * *

(iii) A cyber security plan in accordance with the criteria set forth in § 73.54 of this chapter;

(iv) A description of the implementation of the safeguards contingency plan, training and qualification plan, and cyber security plan; and

(v) Each applicant who prepares a physical security plan, a safeguards contingency plan, a training and qualification plan, or a cyber security plan, shall protect the plans and other related Safeguards Information against unauthorized disclosure in accordance with the requirements of § 73.21 of this chapter.

* * * * *

■ 6. In § 52.80, paragraph (d) is added to read as follows:

§ 52.80 Contents of applications; additional technical information.

* * * * *

(d) A description and plans for implementation of the guidance and strategies intended to maintain or restore core cooling, containment, and spent fuel pool cooling capabilities under the circumstances associated with the loss of large areas of the plant due to explosions or fire as required by § 50.54(hh)(2) of this chapter.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 7. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Public Law 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Public Law 95–601, sec. 10, 92 Stat. 2951 as amended by Public Law 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Public Law 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Public Law 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Public Law 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Public Law 109–58, 119 Stat. 549 (2005).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Public Law 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Public Law 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Public Law 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Public Law 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)).

Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

■ 8. In § 72.212, paragraphs (b)(5)(ii), (b)(5(iii), (b)(5)(iv), and (b)(5)(v) are revised to read as follows:

§ 72.212 Conditions of general license issued under § 72.210.

* * * * *

(b) * * *

(5) * * *

(ii) Storage of spent fuel must be within a protected area, in accordance with § 73.55(e) of this chapter, but need not be within a separate vital area. Existing protected areas may be expanded or new protected areas added for the purpose of storage of spent fuel in accordance with this general license.

(iii) For purposes of this general license, personnel searches required by § 73.55(h) of this chapter before admission to a new protected area may be performed by physical pat-down searches of persons in lieu of firearms and explosives detection equipment.

(iv) The observational capability required by § 73.55(i)(3) of this chapter as applied to a new protected area may be provided by a guard or watchman on patrol in lieu of video surveillance technology.

(v) For the purpose of this general license, the licensee is exempt from requirements to interdict and neutralize threats in § 73.55 of this chapter.

* * * * *

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

■ 9. The authority citation for part 73 continues to read as follows:

Authority: Secs. 53, 161, 149, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2169, 2201): sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 5841, 5844, 2297f); sec.1704, 112 Stat. 2750 (44 U.S.C. 3504 note): Energy Policy Act of 2005, Public Law 109–58, 119 Stat. 594 (2005).

Section 73.1 also issued under sec. 135, 141, Public Law 97–425, 96 Stat. 2232, 2241 (42 U.S.C, 10155, 10161). Section 73.37(f) also issued under sec. 301, Public Law 96–295, 94 Stat.789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Public Law 99–399, 100 Stat. 876 (42 U.S.C. 2169).

■ 10. In § 73.8, paragraph (b) is revised and paragraph (c) is added to read as follows:

§ 73.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 73.5, 73.20, 73.21, 73.24, 73.25, 73.26, 73.27, 73.37, 73.40, 73.45, 73.46, 73.50, 73.54, 73.55, 73.56, 73.57, 73.58, 73.60, 73.67, 73.70, 73.71, 73.72, 73.73, 73.74, and Appendices B, C, and G to this part.

(c) This part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. The information collection requirement and the control numbers under which it is approved are as follows:

(1) In § 73.71, NRC Form 366 is approved under control number 3150–0104.

(2) [Reserved]

■ 11. Section 73.54 is added to read as follows:

§ 73.54 Protection of digital computer and communication systems and networks.

By November 23, 2009 each licensee currently licensed to operate a nuclear power plant under part 50 of this chapter shall submit, as specified in § 50.4 and § 50.90 of this chapter, a cyber security plan that satisfies the requirements of this section for Commission review and approval. Each submittal must include a proposed implementation schedule. Implementation of the licensee's cyber security program must be consistent with the approved schedule. Current applicants for an operating license or combined license who have submitted their applications to the Commission prior to the effective date of this rule

must amend their applications to include a cyber security plan consistent with this section.

(a) Each licensee subject to the requirements of this section shall provide high assurance that digital computer and communication systems and networks are adequately protected against cyber attacks, up to and including the design basis threat as described in § 73.1.

(1) The licensee shall protect digital computer and communication systems and networks associated with:

(i) Safety-related and important-to-safety functions;

(ii) Security functions;

(iii) Emergency preparedness functions, including offsite communications; and

(iv) Support systems and equipment which, if compromised, would adversely impact safety, security, or emergency preparedness functions.

(2) The licensee shall protect the systems and networks identified in paragraph (a)(1) of this section from cyber attacks that would:

(i) Adversely impact the integrity or confidentiality of data and/or software;

(ii) Deny access to systems, services, and/or data; and

(iii) Adversely impact the operation of systems, networks, and associated equipment.

(b) To accomplish this, the licensee shall:

(1) Analyze digital computer and communication systems and networks and identify those assets that must be protected against cyber attacks to satisfy paragraph (a) of this section,

(2) Establish, implement, and maintain a cyber security program for the protection of the assets identified in paragraph (b)(1) of this section; and

(3) Incorporate the cyber security program as a component of the physical protection program.

(c) The cyber security program must be designed to:

(1) Implement security controls to protect the assets identified by paragraph (b)(1) of this section from cyber attacks;

(2) Apply and maintain defense-in-depth protective strategies to ensure the capability to detect, respond to, and recover from cyber attacks;

(3) Mitigate the adverse affects of cyber attacks; and

(4) Ensure that the functions of protected assets identified by paragraph (b)(1) of this section are not adversely impacted due to cyber attacks.

(d) As part of the cyber security program, the licensee shall:

(1) Ensure that appropriate facility personnel, including contractors, are aware of cyber security requirements and receive the training necessary to perform their assigned duties and responsibilities.

(2) Evaluate and manage cyber risks.

(3) Ensure that modifications to assets, identified by paragraph (b)(1) of this section, are evaluated before implementation to ensure that the cyber security performance objectives identified in paragraph (a)(1) of this section are maintained.

(e) The licensee shall establish, implement, and maintain a cyber security plan that implements the cyber security program requirements of this section.

(1) The cyber security plan must describe how the requirements of this section will be implemented and must account for the site-specific conditions that affect implementation.

(2) The cyber security plan must include measures for incident response and recovery for cyber attacks. The cyber security plan must describe how the licensee will:

(i) Maintain the capability for timely detection and response to cyber attacks;

(ii) Mitigate the consequences of cyber attacks;

(iii) Correct exploited vulnerabilities; and

(iv) Restore affected systems, networks, and/or equipment affected by cyber attacks.

(f) The licensee shall develop and maintain written policies and implementing procedures to implement the cyber security plan. Policies, implementing procedures, site-specific analysis, and other supporting technical information used by the licensee need not be submitted for Commission review and approval as part of the cyber security plan but are subject to inspection by NRC staff on a periodic basis.

(g) The licensee shall review the cyber security program as a component of the physical security program in accordance with the requirements of § 73.55(m), including the periodicity requirements.

(h) The licensee shall retain all records and supporting technical documentation required to satisfy the requirements of this section as a record until the Commission terminates the license for which the records were developed, and shall maintain superseded portions of these records for at least three (3) years after the record is superseded, unless otherwise specified by the Commission.

■ 12. Section 73.55 is revised to read as follows:

§ 73.55 Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.

(a) *Introduction.* (1) By March 31, 2010, each nuclear power reactor licensee, licensed under 10 CFR part 50, shall implement the requirements of this section through its Commission-approved Physical Security Plan, Training and Qualification Plan, Safeguards Contingency Plan, and Cyber Security Plan referred to collectively hereafter as ''security plans.'' Current applicants for an operating license under 10 CFR part 50, or combined license under 10 CFR part 52 who have submitted their applications to the Commission prior to the effective date of this rule must amend their applications to include security plans consistent with this section.

(2) The security plans must identify, describe, and account for site-specific conditions that affect the licensee's capability to satisfy the requirements of this section.

(3) The licensee is responsible for maintaining the onsite physical protection program in accordance with Commission regulations through the implementation of security plans and written security implementing procedures.

(4) Applicants for an operating license under the provisions of part 50 of this chapter or holders of a combined license under the provisions of part 52 of this chapter, shall implement the requirements of this section before fuel is allowed onsite (protected area).

(5) The Tennessee Valley Authority Watts Bar Nuclear Plant, Unit 2, holding a current construction permit under the provisions of part 50 of this chapter, shall meet the revised requirements in paragraphs (a) through (r) of this section as applicable to operating nuclear power reactor facilities.

(6) Applicants for an operating license under the provisions of part 50 of this chapter, or holders of a combined license under the provisions of part 52 of this chapter that do not reference a standard design certification or reference a standard design certification issued after May 26, 2009 shall meet the requirement of § 73.55(i)(4)(iii).

(b) *General performance objective and requirements.* (1) The licensee shall establish and maintain a physical protection program, to include a security organization, which will have as its objective to provide high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety.

(2) To satisfy the general performance objective of paragraph (b)(1) of this section, the physical protection program must protect against the design basis threat of radiological sabotage as stated in § 73.1.

(3) The physical protection program must be designed to prevent significant core damage and spent fuel sabotage. Specifically, the program must:

(i) Ensure that the capabilities to detect, assess, interdict, and neutralize threats up to and including the design basis threat of radiological sabotage as stated in § 73.1, are maintained at all times.

(ii) Provide defense-in-depth through the integration of systems, technologies, programs, equipment, supporting processes, and implementing procedures as needed to ensure the effectiveness of the physical protection program.

(4) The licensee shall analyze and identify site-specific conditions, including target sets, that may affect the specific measures needed to implement the requirements of this section and shall account for these conditions in the design of the physical protection program.

(5) Upon the request of an authorized representative of the Commission, the licensee shall demonstrate the ability to meet Commission requirements through the implementation of the physical protection program, including the ability of armed and unarmed personnel to perform assigned duties and responsibilities required by the security plans and licensee procedures.

(6) The licensee shall establish, maintain, and implement a performance evaluation program in accordance with appendix B to this part, to demonstrate and assess the effectiveness of armed responders and armed security officers to implement the licensee's protective strategy.

(7) The licensee shall establish, maintain, and implement an access authorization program in accordance with § 73.56 and shall describe the program in the Physical Security Plan.

(8) The licensee shall establish, maintain, and implement a cyber security program in accordance with § 73.54.

(9) The licensee shall establish, maintain, and implement an insider mitigation program and shall describe the program in the Physical Security Plan.

(i) The insider mitigation program must monitor the initial and continuing trustworthiness and reliability of individuals granted or retaining unescorted access authorization to a protected or vital area, and implement defense-in-depth methodologies to minimize the potential for an insider to adversely affect, either directly or indirectly, the licensee's capability to prevent significant core damage and spent fuel sabotage.

(ii) The insider mitigation program must contain elements from:

(A) The access authorization program described in § 73.56;

(B) The fitness-for-duty program described in part 26 of this chapter;

(C) The cyber security program described in § 73.54; and

(D) The physical protection program described in this section.

(10) The licensee shall use the site corrective action program to track, trend, correct and prevent recurrence of failures and deficiencies in the physical protection program.

(11) Implementation of security plans and associated procedures must be coordinated with other onsite plans and procedures to preclude conflict during both normal and emergency conditions.

(c) *Security plans.* (1) Licensee security plans must describe:

(i) How the licensee will implement requirements of this section through the establishment and maintenance of a security organization, the use of security equipment and technology, the training and qualification of security personnel, the implementation of predetermined response plans and strategies, and the protection of digital computer and communication systems and networks.

(ii) Site-specific conditions that affect how the licensee implements Commission requirements.

(2) Protection of Security Plans. The licensee shall protect the security plans and other security-related information against unauthorized disclosure in accordance with the requirements of § 73.21.

(3) Physical Security Plan. The licensee shall establish, maintain, and implement a Physical Security Plan which describes how the performance objective and requirements set forth in this section will be implemented.

(4) Training and Qualification Plan. The licensee shall establish, maintain, and implement, and follow a Training and Qualification Plan that describes how the criteria set forth in appendix B, to this part, ''General Criteria for Security Personnel,'' will be implemented.

(5) Safeguards Contingency Plan. The licensee shall establish, maintain, and implement a Safeguards Contingency Plan that describes how the criteria set forth in appendix C, to this part, ''Licensee Safeguards Contingency Plans,'' will be implemented.

(6) Cyber Security Plan. The licensee shall establish, maintain, and implement a Cyber Security Plan that describes how the criteria set forth in § 73.54 ''Protection of Digital Computer and Communication systems and Networks'' of this part will be implemented.

(7) Security implementing procedures.

(i) The licensee shall have a management system to provide for the development, implementation, revision, and oversight of security procedures that implement Commission requirements and the security plans.

(ii) Implementing procedures must document the structure of the security organization and detail the types of duties, responsibilities, actions, and decisions to be performed or made by each position of the security organization.

(iii) The licensee shall:

(A) Provide a process for the written approval of implementing procedures and revisions by the individual with overall responsibility for the security program.

(B) Ensure that revisions to security implementing procedures satisfy the requirements of this section.

(iv) Implementing procedures need not be submitted to the Commission for approval, but are subject to inspection by the Commission.

(d) *Security organization.* (1) The licensee shall establish and maintain a security organization that is designed, staffed, trained, qualified, and equipped to implement the physical protection program in accordance with the requirements of this section.

(2) The security organization must include:

(i) A management system that provides oversight of the onsite physical protection program.

(ii) At least one member, onsite and available at all times, who has the authority to direct the activities of the security organization and who is assigned no other duties that would interfere with this individual's ability to perform these duties in accordance with the security plans and the licensee protective strategy.

(3) The licensee may not permit any individual to implement any part of the physical protection program unless the individual has been trained, equipped, and qualified to perform their assigned duties and responsibilities in accordance with appendix B to this part and the Training and Qualification Plan. Non-security personnel may be assigned duties and responsibilities required to implement the physical protection program and shall:

(i) Be trained through established licensee training programs to ensure each individual is trained, qualified, and periodically re-qualified to perform assigned duties.

(ii) Be properly equipped to perform assigned duties.

(iii) Possess the knowledge, skills, and abilities, to include physical attributes such as sight and hearing, required to perform their assigned duties and responsibilities.

(e) *Physical barriers.* Each licensee shall identify and analyze site-specific conditions to determine the specific use, type, function, and placement of physical barriers needed to satisfy the physical protection program design requirements of § 73.55(b).

(1) The licensee shall:

(i) Design, construct, install and maintain physical barriers as necessary to control access into facility areas for which access must be controlled or denied to satisfy the physical protection program design requirements of paragraph (b) of this section.

(ii) Describe in the security plan, physical barriers, barrier systems, and their functions within the physical protection program.

(2) The licensee shall retain, in accordance with § 73.70, all analyses and descriptions of the physical barriers and barrier systems used to satisfy the requirements of this section, and shall protect these records in accordance with the requirements of § 73.21.

(3) Physical barriers must:

(i) Be designed and constructed to:

(A) Protect against the design basis threat of radiological sabotage;

(B) Account for site-specific conditions; and

(C) Perform their required function in support of the licensee physical protection program.

(ii) Provide deterrence, delay, or support access control.

(iii) Support effective implementation of the licensee's protective strategy.

(4) Consistent with the stated function to be performed, openings in any barrier or barrier system established to meet the requirements of this section must be secured and monitored to prevent exploitation of the opening.

(5) Bullet Resisting Physical Barriers. The reactor control room, the central alarm station, and the location within which the last access control function for access to the protected area is performed, must be bullet-resisting.

(6) Owner controlled area. The licensee shall establish and maintain physical barriers in the owner controlled area as needed to satisfy the physical protection program design requirements of § 73.55(b).

(7) Isolation zone.

(i) An isolation zone must be maintained in outdoor areas adjacent to the protected area perimeter barrier. The isolation zone shall be:

(A) Designed and of sufficient size to permit observation and assessment of activities on either side of the protected area barrier;

(B) Monitored with intrusion detection equipment designed to satisfy the requirements of § 73.55(i) and be capable of detecting both attempted and actual penetration of the protected area perimeter barrier before completed penetration of the protected area perimeter barrier; and

(C) Monitored with assessment equipment designed to satisfy the requirements of § 73.55(i) and provide real-time and play-back/recorded video images of the detected activities before and after each alarm annunciation.

(ii) Obstructions that could prevent the licensee's capability to meet the observation and assessment requirements of this section must be located outside of the isolation zone.

(8) Protected area.

(i) The protected area perimeter must be protected by physical barriers that are designed and constructed to:

(A) Limit access into the protected area to only those personnel, vehicles, and materials required to perform official duties;

(B) Channel personnel, vehicles, and materials to designated access control portals; and

(C) Be separated from any other barrier designated as a vital area physical barrier, unless otherwise identified in the Physical Security Plan.

(ii) Penetrations through the protected area barrier must be secured and monitored in a manner that prevents or delays, and detects the exploitation of any penetration.

(iii) All emergency exits in the protected area must be alarmed and secured by locking devices that allow prompt egress during an emergency and satisfy the requirements of this section for access control into the protected area.

(iv) Where building walls or roofs comprise a portion of the protected area perimeter barrier, an isolation zone is not necessary provided that the detection and, assessment requirements of this section are met, appropriate barriers are installed, and the area is described in the security plans.

(v) All exterior areas within the protected area, except for areas that must be excluded for safety reasons, must be periodically checked to detect and deter unauthorized personnel, vehicles, and materials.

(9) Vital areas.

(i) Vital equipment must be located only within vital areas, which must be located within a protected area so that access to vital equipment requires passage through at least two physical barriers, except as otherwise approved by the Commission and identified in the security plans.

(ii) The licensee shall protect all vital area access portals and vital area emergency exits with intrusion detection equipment and locking devices that allow rapid egress during an emergency and satisfy the vital area entry control requirements of this section.

(iii) Unoccupied vital areas must be locked and alarmed.

(iv) More than one vital area may be located within a single protected area.

(v) At a minimum, the following shall be considered vital areas:

(A) The reactor control room;

(B) The spent fuel pool;

(C) The central alarm station; and

(D) The secondary alarm station in accordance with § 73.55(i)(4)(iii).

(vi) At a minimum, the following shall be located within a vital area:

(A) The secondary power supply systems for alarm annunciation equipment; and

(B) The secondary power supply systems for non-portable communications equipment.

(10) Vehicle control measures. Consistent with the physical protection program design requirements of § 73.55(b), and in accordance with the site-specific analysis, the licensee shall establish and maintain vehicle control measures, as necessary, to protect against the design basis threat of radiological sabotage vehicle bomb assault.

(i) Land vehicles. Licensees shall:

(A) Design, construct, install, and maintain a vehicle barrier system, to include passive and active barriers, at a stand-off distance adequate to protect personnel, equipment, and systems necessary to prevent significant core damage and spent fuel sabotage against the effects of the design basis threat of radiological sabotage land vehicle bomb assault.

(B) Periodically check the operation of active vehicle barriers and provide a secondary power source, or a means of mechanical or manual operation in the event of a power failure, to ensure that the active barrier can be placed in the denial position to prevent unauthorized vehicle access beyond the required standoff distance.

(C) Provide periodic surveillance and observation of vehicle barriers and barrier systems adequate to detect

indications of tampering and degradation or to otherwise ensure that each vehicle barrier and barrier system is able to satisfy the intended function.

(D) Where a site has rail access to the protected area, install a train derailer, remove a section of track, or restrict access to railroad sidings and provide periodic surveillance of these measures.

(ii) Waterborne vehicles. Licensees shall:

(A) Identify areas from which a waterborne vehicle must be restricted, and where possible, in coordination with local, State, and Federal agencies having jurisdiction over waterway approaches, deploy buoys, markers, or other equipment.

(B) In accordance with the site-specific analysis, provide periodic surveillance and observation of waterway approaches and adjacent areas.

(f) *Target sets.* (1) The licensee shall document and maintain the process used to develop and identify target sets, to include the site-specific analyses and methodologies used to determine and group the target set equipment or elements.

(2) The licensee shall consider cyber attacks in the development and identification of target sets.

(3) Target set equipment or elements that are not contained within a protected or vital area must be identified and documented consistent with the requirements in § 73.55(f)(1) and be accounted for in the licensee's protective strategy.

(4) The licensee shall implement a process for the oversight of target set equipment and systems to ensure that changes to the configuration of the identified equipment and systems are considered in the licensee's protective strategy. Where appropriate, changes must be made to documented target sets.

(g) *Access controls.* (1) Consistent with the function of each barrier or barrier system, the licensee shall control personnel, vehicle, and material access, as applicable, at each access control point in accordance with the physical protection program design requirements of § 73.55(b).

(i) To accomplish this, the licensee shall:

(A) Locate access control portals outside of, or concurrent with, the physical barrier system through which it controls access.

(B) Equip access control portals with locking devices, intrusion detection equipment, and surveillance equipment consistent with the intended function.

(C) Provide supervision and control over the badging process to prevent unauthorized bypass of access control equipment located at or outside of the protected area.

(D) Limit unescorted access to the protected area and vital areas, during non-emergency conditions, to only those individuals who require unescorted access to perform assigned duties and responsibilities.

(E) Assign an individual the responsibility for the last access control function (controlling admission to the protected area) and isolate the individual within a bullet-resisting structure to assure the ability of the individual to respond or summon assistance.

(ii) Where vehicle barriers are established, the licensee shall:

(A) Physically control vehicle barrier portals to ensure only authorized vehicles are granted access through the barrier.

(B) Search vehicles and materials for contraband or other items which could be used to commit radiological sabotage in accordance with paragraph (h) of this section.

(C) Observe search functions to ensure a response can be initiated if needed.

(2) Before granting access into the protected area, the licensee shall:

(i) Confirm the identity of individuals.

(ii) Verify the authorization for access of individuals, vehicles, and materials.

(iii) Confirm, in accordance with industry shared lists and databases that individuals are not currently denied access to another licensed facility.

(iv) Search individuals, vehicles, and materials in accordance with paragraph (h) of this section.

(3) Vehicles in the protected area.

(i) The licensee shall exercise control over all vehicles inside the protected area to ensure that they are used only by authorized persons and for authorized purposes.

(ii) Vehicles inside the protected area must be operated by an individual authorized unescorted access to the area, or must be escorted by an individual as required by paragraph (g)(8) of this section.

(iii) Vehicle use inside the protected area must be limited to plant functions or emergencies, and keys must be removed or the vehicle otherwise disabled when not in use.

(iv) Vehicles transporting hazardous materials inside the protected area must be escorted by an armed member of the security organization.

(4) Vital Areas.

(i) Licensees shall control access into vital areas consistent with access authorization lists.

(ii) In response to a site-specific credible threat or other credible information, implement a two-person (line-of-sight) rule for all personnel in vital areas so that no one individual is permitted access to a vital area.

(5) Emergency conditions.

(i) The licensee shall design the access control system to accommodate the potential need for rapid ingress or egress of authorized individuals during emergency conditions or situations that could lead to emergency conditions.

(ii) To satisfy the design criteria of paragraph (g)(5)(i) of this section during emergency conditions, the licensee shall implement security procedures to ensure that authorized emergency personnel are provided prompt access to affected areas and equipment.

(6) Access control devices.

(i) The licensee shall control all keys, locks, combinations, passwords and related access control devices used to control access to protected areas, vital areas and security systems to reduce the probability of compromise. To accomplish this, the licensee shall:

(A) Issue access control devices only to individuals who have unescorted access authorization and require access to perform official duties and responsibilities.

(B) Maintain a record, to include name and affiliation, of all individuals to whom access control devices have been issued, and implement a process to account for access control devices at least annually.

(C) Implement compensatory measures upon discovery or suspicion that any access control device may have been compromised. Compensatory measures must remain in effect until the compromise is corrected.

(D) Retrieve, change, rotate, deactivate, or otherwise disable access control devices that have been or may have been compromised or when a person with access to control devices has been terminated under less than favorable conditions.

(ii) The licensee shall implement a numbered photo identification badge system for all individuals authorized unescorted access to the protected area and vital areas.

(A) Identification badges may be removed from the protected area only when measures are in place to confirm the true identity and authorization for unescorted access of the badge holder before allowing unescorted access to the protected area.

(B) Except where operational safety concerns require otherwise, identification badges must be clearly displayed by all individuals while inside the protected area and vital areas.

(C) The licensee shall maintain a record, to include the name and areas to which unescorted access is granted, of

all individuals to whom photo identification badges have been issued.

(iii) Access authorization program personnel shall be issued passwords and combinations to perform their assigned duties and may be excepted from the requirement of paragraph (g)(6)(i)(A) of this section provided they meet the background requirements of § 73.56.

(7) Visitors.

(i) The licensee may permit escorted access to protected and vital areas to individuals who have not been granted unescorted access in accordance with the requirements of § 73.56 and part 26 of this chapter. The licensee shall:

(A) Implement procedures for processing, escorting, and controlling visitors.

(B) Confirm the identity of each visitor through physical presentation of a recognized identification card issued by a local, State, or Federal government agency that includes a photo or contains physical characteristics of the individual requesting escorted access.

(C) Maintain a visitor control register in which all visitors shall register their name, date, time, purpose of visit, employment affiliation, citizenship, and name of the individual to be visited before being escorted into any protected or vital area.

(D) Issue a visitor badge to all visitors that clearly indicates an escort is required.

(E) Escort all visitors, at all times, while inside the protected area and vital areas.

(F) Deny escorted access to any individual who is currently denied access in industry shared data bases.

(ii) Individuals not employed by the licensee but who require frequent or extended unescorted access to the protected area and/or vital areas to perform duties and responsibilities required by the licensee at irregular or intermittent intervals, shall satisfy the access authorization requirements of § 73.56 and part 26 of this chapter, and shall be issued a non-employee photo identification badge that is easily distinguished from other identification badges before being allowed unescorted access to the protected and vital areas. Non-employee photo identification badges must visually reflect that the individual is a non-employee and that no escort is required.

(8) Escorts. The licensee shall ensure that all escorts are trained to perform escort duties in accordance with the requirements of this section and site training requirements.

(i) Escorts shall be authorized unescorted access to all areas in which they will perform escort duties.

(ii) Individuals assigned to visitor escort duties shall be provided a means of timely communication with security personnel to summon assistance when needed.

(iii) Individuals assigned to vehicle escort duties shall be trained and qualified in accordance with appendix B of this part and provided a means of continuous communication with security personnel to ensure the ability to summon assistance when needed.

(iv) When visitors are performing work, escorts shall be generally knowledgeable of the activities to be performed by the visitor and report behaviors or activities that may constitute an unreasonable risk to the health and safety of the public and common defense and security, including a potential threat to commit radiological sabotage, consistent with § 73.56(f)(1).

(v) Each licensee shall describe visitor to escort ratios for the protected area and vital areas in physical security plans. Implementing procedures shall provide necessary observation and control requirements for all visitor activities.

(h) *Search programs.* (1) The objective of the search program is to detect, deter, and prevent the introduction of firearms, explosives, incendiary devices, or other items which could be used to commit radiological sabotage. To accomplish this the licensee shall search individuals, vehicles, and materials consistent with the physical protection program design requirements in paragraph (b) of this section, and the function to be performed at each access control point or portal before granting access.

(2) Owner controlled area searches.

(i) Where the licensee has established physical barriers in the owner controlled area, the licensee shall implement search procedures for access control points in the barrier.

(ii) For each vehicle access control point, the licensee shall describe in implementing procedures areas of a vehicle to be searched, and the items for which the search is intended to detect and prevent access. Areas of the vehicle to be searched must include, but are not limited to, the cab, engine compartment, undercarriage, and cargo area.

(iii) Vehicle searches must be performed by at least two (2) trained and equipped security personnel, one of which must be armed. The armed individual shall be positioned to observe the search process and provide immediate response.

(iv) Vehicle searches must be accomplished through the use of equipment capable of detecting firearms, explosives, incendiary devices, or other items which could be used to commit radiological sabotage, or through visual and physical searches, or both, to ensure that all items are identified before granting access.

(v) Vehicle access control points must be equipped with video surveillance equipment that is monitored by an individual capable of initiating a response.

(3) Protected area searches. Licensees shall search all personnel, vehicles and materials requesting access to protected areas.

(i) The search for firearms, explosives, incendiary devices, or other items which could be used to commit radiological sabotage shall be accomplished through the use of equipment capable of detecting these items, or through visual and physical searches, or both, to ensure that all items are clearly identified before granting access to protected areas. The licensee shall subject all persons except official Federal, state, and local law enforcement personnel on official duty to these searches upon entry to the protected area. Armed security officers who are on duty and have exited the protected area may re-enter the protected area without being searched for firearms.

(ii) Whenever search equipment is out of service, is not operating satisfactorily, or cannot be used effectively to search individuals, vehicles, or materials, a visual and physical search shall be conducted.

(iii) When an attempt to introduce firearms, explosives, incendiary devices, or other items which could be used to commit radiological sabotage has occurred or is suspected, the licensee shall implement actions to ensure that the suspect individuals, vehicles, and materials are denied access and shall perform a visual and physical search to determine the absence or existence of a threat.

(iv) For each vehicle access portal, the licensee shall describe in implementing procedures areas of a vehicle to be searched before access is granted. Areas of the vehicle to be searched must include, but are not limited to, the cab, engine compartment, undercarriage, and cargo area.

(v) Exceptions to the protected area search requirements for materials may be granted for safety or operational reasons provided the design criteria of § 73.55(b) are satisfied, the materials are clearly identified, the types of exceptions to be granted are described in the security plans, and the specific security measures to be implemented for

excepted items are detailed in site procedures.

(vi) To the extent practicable, excepted materials must be positively controlled, stored in a locked area, and opened at the final destination by an individual familiar with the items.

(vii) Bulk material excepted from the protected area search requirements must be escorted by an armed member of the security organization to its final destination or to a receiving area where the excepted items are offloaded and verified.

(viii) To the extent practicable, bulk materials excepted from search shall not be offloaded adjacent to a vital area.

(i) *Detection and assessment systems.* (1) The licensee shall establish and maintain intrusion detection and assessment systems that satisfy the design requirements of § 73.55(b) and provide, at all times, the capability to detect and assess unauthorized persons and facilitate the effective implementation of the licensee's protective strategy.

(2) Intrusion detection equipment must annunciate and video assessment equipment shall display concurrently, in at least two continuously staffed onsite alarm stations, at least one of which must be protected in accordance with the requirements of the central alarm station within this section.

(3) The licensee's intrusion detection and assessment systems must be designed to:

(i) Provide visual and audible annunciation of the alarm.

(ii) Provide a visual display from which assessment of the detected activity can be made.

(iii) Ensure that annunciation of an alarm indicates the type and location of the alarm.

(iv) Ensure that alarm devices to include transmission lines to annunciators are tamper indicating and self-checking.

(v) Provide an automatic indication when the alarm system or a component of the alarm system fails, or when the system is operating on the backup power supply.

(vi) Support the initiation of a timely response in accordance with the security plans, licensee protective strategy, and associated implementing procedures.

(vii) Ensure intrusion detection and assessment equipment at the protected area perimeter remains operable from an uninterruptible power supply in the event of the loss of normal power.

(4) Alarm stations.

(i) Both alarm stations required by paragraph (i)(2) of this section must be designed and equipped to ensure that a single act, in accordance with the design basis threat of radiological sabotage defined in § 73.1(a)(1), cannot disable both alarm stations. The licensee shall ensure the survivability of at least one alarm station to maintain the ability to perform the following functions:

(A) Detect and assess alarms;

(B) Initiate and coordinate an adequate response to an alarm;

(C) Summon offsite assistance; and

(D) Provide command and control.

(ii) Licensees shall:

(A) Locate the central alarm station inside a protected area. The interior of the central alarm station must not be visible from the perimeter of the protected area.

(B) Continuously staff each alarm station with at least one trained and qualified alarm station operator. The alarm station operator must not be assigned other duties or responsibilities which would interfere with the ability to execute the functions described in § 73.55(i)(4)(i) of this section.

(C) Not permit any activities to be performed within either alarm station that would interfere with an alarm station operator's ability to execute assigned duties and responsibilities.

(D) Assess and initiate response to all alarms in accordance with the security plans and implementing procedures.

(E) Assess and initiate response to other events as appropriate.

(F) Ensure that an alarm station operator cannot change the status of a detection point or deactivate a locking or access control device at a protected or vital area portal, without the knowledge and concurrence of the alarm station operator in the other alarm station.

(G) Ensure that operators in both alarm stations are knowledgeable of final disposition of all alarms.

(H) Maintain a record of all alarm annunciations, the cause of each alarm, and the disposition of each alarm.

(iii) Applicants for an operating license under the provisions of part 50 of this chapter, or holders of a combined license under the provisions of part 52 of this chapter, shall construct, locate, protect, and equip both the central and secondary alarm stations to the standards for the central alarm station contained in this section. Both alarm stations shall be equal and redundant, such that all functions needed to satisfy the requirements of this section can be performed in both alarm stations.

(5) Surveillance, observation, and monitoring.

(i) The physical protection program must include surveillance, observation, and monitoring as needed to satisfy the design requirements of § 73.55(b), identify indications of tampering, or otherwise implement the site protective strategy.

(ii) The licensee shall provide continuous surveillance, observation, and monitoring of the owner controlled area as described in the security plans to detect and deter intruders and ensure the integrity of physical barriers or other components and functions of the onsite physical protection program. Continuous surveillance, observation, and monitoring responsibilities may be performed by security personnel during continuous patrols, through use of video technology, or by a combination of both.

(iii) Unattended openings that intersect a security boundary such as underground pathways must be protected by a physical barrier and monitored by intrusion detection equipment or observed by security personnel at a frequency sufficient to detect exploitation.

(iv) Armed security patrols shall periodically check external areas of the protected area to include physical barriers and vital area portals.

(v) Armed security patrols shall periodically inspect vital areas to include the physical barriers used at all vital area portals.

(vi) The licensee shall provide random patrols of all accessible areas containing target set equipment.

(vii) Security personnel shall be trained to recognize obvious indications of tampering consistent with their assigned duties and responsibilities.

(viii) Upon detection of tampering, or other threats, the licensee shall initiate response in accordance with the security plans and implementing procedures.

(6) Illumination.

(i) The licensee shall ensure that all areas of the facility are provided with illumination necessary to satisfy the design requirements of § 73.55(b) and implement the protective strategy.

(ii) The licensee shall provide a minimum illumination level of 0.2 foot-candles, measured horizontally at ground level, in the isolation zones and appropriate exterior areas within the protected area. Alternatively, the licensee may augment the facility illumination system by means of low-light technology to meet the requirements of this section or otherwise implement the protective strategy.

(iii) The licensee shall describe in the security plans how the lighting requirements of this section are met and, if used, the type(s) and application of low-light technology.

(j) *Communication requirements.* (1) The licensee shall establish and

maintain continuous communication capability with onsite and offsite resources to ensure effective command and control during both normal and emergency situations.

(2) Individuals assigned to each alarm station shall be capable of calling for assistance in accordance with the security plans and the licensee's procedures.

(3) All on-duty security force personnel shall be capable of maintaining continuous communication with an individual in each alarm station, and vehicle escorts shall maintain continuous communication with security personnel. All personnel escorts shall maintain timely communication with the security personnel.

(4) The following continuous communication capabilities must terminate in both alarm stations required by this section:

(i) Radio or microwave transmitted two-way voice communication, either directly or through an intermediary, in addition to conventional telephone service between local law enforcement authorities and the site.

(ii) A system for communication with the control room.

(5) Non-portable communications equipment must remain operable from independent power sources in the event of the loss of normal power.

(6) The licensee shall identify site areas where communication could be interrupted or cannot be maintained, and shall establish alternative communication measures or otherwise account for these areas in implementing procedures.

(k) *Response requirements.* (1) The licensee shall establish and maintain, at all times, properly trained, qualified and equipped personnel required to interdict and neutralize threats up to and including the design basis threat of radiological sabotage as defined in § 73.1, to prevent significant core damage and spent fuel sabotage.

(2) The licensee shall ensure that all firearms, ammunition, and equipment necessary to implement the site security plans and protective strategy are in sufficient supply, are in working condition, and are readily available for use.

(3) The licensee shall train each armed member of the security organization to prevent or impede attempted acts of radiological sabotage by using force sufficient to counter the force directed at that person, including the use of deadly force when the armed member of the security organization has a reasonable belief that the use of deadly force is necessary in self-defense or in the defense of others, or any other circumstances as authorized by applicable State or Federal law.

(4) The licensee shall provide armed response personnel consisting of armed responders which may be augmented with armed security officers to carry out armed response duties within predetermined time lines specified by the site protective strategy.

(5) Armed responders.

(i) The licensee shall determine the minimum number of armed responders necessary to satisfy the design requirements of § 73.55(b) and implement the protective strategy. The licensee shall document this number in the security plans.

(ii) The number of armed responders shall not be less than ten (10).

(iii) Armed responders shall be available at all times inside the protected area and may not be assigned other duties or responsibilities that could interfere with their assigned response duties.

(6) Armed security officers.

(i) Armed security officers, designated to strengthen onsite response capabilities, shall be onsite and available at all times to carry out their assigned response duties.

(ii) The minimum number of armed security officers designated to strengthen onsite response capabilities must be documented in the security plans.

(7) The licensee shall have procedures to reconstitute the documented number of available armed response personnel required to implement the protective strategy.

(8) Protective strategy. The licensee shall establish, maintain, and implement a written protective strategy in accordance with the requirements of this section and part 73, appendix C, Section II. Upon receipt of an alarm or other indication of a threat, the licensee shall:

(i) Determine the existence and level of a threat in accordance with pre-established assessment methodologies and procedures.

(ii) Initiate response actions to interdict and neutralize the threat in accordance with the requirements of part 73, appendix C, section II, the safeguards contingency plan, and the licensee's response strategy.

(iii) Notify law enforcement agencies (local, State, and Federal law enforcement agencies (LLEA)), in accordance with site procedures.

(9) Law enforcement liaison. To the extent practicable, licensees shall document and maintain current agreements with applicable law enforcement agencies to include estimated response times and capabilities.

(10) Heightened security. Licensees shall establish, maintain, and implement a threat warning system which identifies specific graduated protective measures and actions to be taken to increase licensee preparedness against a heightened security threat.

(i) Licensees shall ensure that the specific protective measures and actions identified for each threat level are consistent with the security plans and other emergency plans and procedures.

(ii) Upon notification by an authorized representative of the Commission, licensees shall implement the specific threat level indicated by the Commission representative.

(l) *Facilities using mixed-oxide (MOX) fuel assemblies containing up to 20 weight percent plutonium dioxide (PuO_2).* (1) Commercial nuclear power reactors licensed under 10 CFR parts 50 or 52 and authorized to use special nuclear material in the form of MOX fuel assemblies containing up to 20 weight percent PuO_2 shall, in addition to meeting the requirements of this section, protect un-irradiated MOX fuel assemblies against theft or diversion as described in this paragraph.

(2) Commercial nuclear power reactors authorized to use MOX fuel assemblies containing up to 20 weight percent PuO_2 are exempt from the requirements of §§ 73.20, 73.45, and 73.46 for the onsite physical protection of un-irradiated MOX fuel assemblies.

(3) Administrative controls.

(i) The licensee shall describe in the security plans the operational and administrative controls to be implemented for the receipt, inspection, movement, storage, and protection of un-irradiated MOX fuel assemblies.

(ii) The licensee shall implement the use of tamper-indicating devices for un-irradiated MOX fuel assembly transport and shall verify their use and integrity before receipt.

(iii) Upon receipt of un-irradiated MOX fuel assemblies, the licensee shall:

(A) Inspect un-irradiated MOX fuel assemblies for damage.

(B) Search un-irradiated MOX fuel assemblies for unauthorized materials.

(iv) The licensee may conduct the required inspection and search functions simultaneously.

(v) The licensee shall ensure the proper placement and control of un-irradiated MOX fuel assemblies as follows:

(A) At least one armed security officer shall be present during the receipt and inspection of un-irradiated MOX fuel assemblies. This armed security officer

shall not be an armed responder as required by paragraph (k) of this section.

(B) The licensee shall store un-irradiated MOX fuel assemblies only within a spent fuel pool, located within a vital area, so that access to the un-irradiated MOX fuel assemblies requires passage through at least two physical barriers and the water barrier combined with the additional measures detailed in this section.

(vi) The licensee shall implement a material control and accountability program that includes a predetermined and documented storage location for each un-irradiated MOX fuel assembly.

(4) Physical controls.

(i) The licensee shall lock, lockout, or disable all equipment and power supplies to equipment required for the movement and handling of un-irradiated MOX fuel assemblies when movement activities are not authorized.

(ii) The licensee shall implement a two-person, line-of-sight rule within the spent fuel pool area whenever control systems or equipment required for the movement or handling of un-irradiated MOX fuel assemblies must be accessed.

(iii) The licensee shall conduct random patrols of areas containing un-irradiated MOX fuel assemblies to identify indications of tampering and ensure the integrity of barriers and locks.

(iv) Locks, keys, and any other access control device used to secure equipment and power sources required for the movement of un-irradiated MOX fuel assemblies, or openings to areas containing un-irradiated MOX fuel assemblies, must be controlled by the security organization.

(v) Removal of locks used to secure equipment and power sources required for the movement of un-irradiated MOX fuel assemblies or openings to areas containing un-irradiated MOX fuel assemblies must require approval by both the on-duty security shift supervisor and the operations shift manager.

(A) At least one armed security officer shall be present to observe activities involving the movement of un-irradiated MOX fuel assemblies before the removal of the locks and providing power to equipment required for the movement or handling of un-irradiated MOX fuel assemblies.

(B) At least one armed security officer shall be present at all times until power is removed from equipment and locks are secured.

(C) Security officers shall be knowledgeable of authorized and unauthorized activities involving un-irradiated MOX fuel assemblies.

(5) At least one armed security officer shall be present and shall maintain constant surveillance of un-irradiated MOX fuel assemblies when the assemblies are not located in the spent fuel pool or reactor.

(6) The licensee shall maintain at all times the capability to detect, assess, interdict and neutralize threats to un-irradiated MOX fuel assemblies in accordance with the requirements of this section.

(7) MOX fuel assemblies containing greater than 20 weight percent PuO_2.

(i) Requests for the use of MOX fuel assemblies containing greater than 20 weight percent PuO_2 shall be reviewed and approved by the Commission before receipt of MOX fuel assemblies.

(ii) Additional measures for the physical protection of un-irradiated MOX fuel assemblies containing greater than 20 weight percent PuO_2 shall be determined by the Commission on a case-by-case basis and documented through license amendment in accordance with 10 CFR 50.90.

(m) *Security program reviews.* (1) As a minimum the licensee shall review each element of the physical protection program at least every 24 months. Reviews shall be conducted:

(i) Within 12 months following initial implementation of the physical protection program or a change to personnel, procedures, equipment, or facilities that potentially could adversely affect security.

(ii) As necessary based upon site-specific analyses, assessments, or other performance indicators.

(iii) By individuals independent of those personnel responsible for program management and any individual who has direct responsibility for implementing the onsite physical protection program.

(2) Reviews of the security program must include, but not be limited to, an audit of the effectiveness of the physical security program, security plans, implementing procedures, cyber security programs, safety/security interface activities, the testing, maintenance, and calibration program, and response commitments by local, State, and Federal law enforcement authorities.

(3) The results and recommendations of the onsite physical protection program reviews, management's findings regarding program effectiveness, and any actions taken as a result of recommendations from prior program reviews, must be documented in a report to the licensee's plant manager and to corporate management at least one level higher than that having responsibility for day-to-day plant operation. These reports must be maintained in an auditable form, available for inspection.

(4) Findings from onsite physical protection program reviews must be entered into the site corrective action program.

(n) *Maintenance, testing, and calibration.* (1) The licensee shall:

(i) Establish, maintain, and implement a maintenance, testing and calibration program to ensure that security systems and equipment, including secondary and uninterruptible power supplies, are tested for operability and performance at predetermined intervals, maintained in operable condition, and are capable of performing their intended functions.

(ii) Describe the maintenance, testing and calibration program in the physical security plan. Implementing procedures must specify operational and technical details required to perform maintenance, testing, and calibration activities to include, but not limited to, purpose of activity, actions to be taken, acceptance criteria, and the intervals or frequency at which the activity will be performed.

(iii) Identify in procedures the criteria for determining when problems, failures, deficiencies, and other findings are documented in the site corrective action program for resolution.

(iv) Ensure that information documented in the site corrective action program is written in a manner that does not constitute safeguards information as defined in 10 CFR 73.21.

(v) Implement compensatory measures that ensure the effectiveness of the onsite physical protection program when there is a failure or degraded operation of security-related component or equipment.

(2) The licensee shall test each intrusion alarm for operability at the beginning and end of any period that it is used for security, or if the period of continuous use exceeds seven (7) days. The intrusion alarm must be tested at least once every seven (7) days.

(3) Intrusion detection and access control equipment must be performance tested in accordance with the security plans and implementing procedures.

(4) Equipment required for communications onsite must be tested for operability not less frequently than once at the beginning of each security personnel work shift.

(5) Communication systems between the alarm stations and each control room, and between the alarm stations and local law enforcement agencies, to include backup communication equipment, must be tested for operability at least once each day.

(6) Search equipment must be tested for operability at least once each day and tested for performance at least once during each seven (7) day period.

(7) A program for testing or verifying the operability of devices or equipment located in hazardous areas must be specified in the implementing procedures and must define alternate measures to be taken to ensure the timely completion of testing or maintenance when the hazardous condition or other restrictions are no longer applicable.

(8) Security equipment or systems shall be tested in accordance with the site maintenance, testing and calibration procedures before being placed back in service after each repair or inoperable state.

(o) *Compensatory measures.* (1) The licensee shall identify criteria and measures to compensate for degraded or inoperable equipment, systems, and components to meet the requirements of this section.

(2) Compensatory measures must provide a level of protection that is equivalent to the protection that was provided by the degraded or inoperable, equipment, system, or components.

(3) Compensatory measures must be implemented within specific time frames necessary to meet the requirements stated in paragraph (b) of this section and described in the security plans.

(p) *Suspension of security measures.* (1) The licensee may suspend implementation of affected requirements of this section under the following conditions:

(i) In accordance with §§ 50.54(x) and 50.54(y) of this chapter, the licensee may suspend any security measures under this section in an emergency when this action is immediately needed to protect the public health and safety and no action consistent with license conditions and technical specifications that can provide adequate or equivalent protection is immediately apparent. This suspension of security measures must be approved as a minimum by a licensed senior operator before taking this action.

(ii) During severe weather when the suspension of affected security measures is immediately needed to protect the personal health and safety of security force personnel and no other immediately apparent action consistent with the license conditions and technical specifications can provide adequate or equivalent protection. This suspension of security measures must be approved, as a minimum, by a licensed senior operator, with input from the security supervisor or manager, before taking this action.

(2) Suspended security measures must be reinstated as soon as conditions permit.

(3) The suspension of security measures must be reported and documented in accordance with the provisions of § 73.71.

(q) *Records.* (1) The Commission may inspect, copy, retain, and remove all reports, records, and documents required to be kept by Commission regulations, orders, or license conditions, whether the reports, records, and documents are kept by the licensee or a contractor.

(2) The licensee shall maintain all records required to be kept by Commission regulations, orders, or license conditions, until the Commission terminates the license for which the records were developed, and shall maintain superseded portions of these records for at least three (3) years after the record is superseded, unless otherwise specified by the Commission.

(3) If a contracted security force is used to implement the onsite physical protection program, the licensee's written agreement with the contractor must be retained by the licensee as a record for the duration of the contract.

(4) Review and audit reports must be maintained and available for inspection, for a period of three (3) years.

(r) *Alternative measures.* (1) The Commission may authorize an applicant or licensee to provide a measure for protection against radiological sabotage other than one required by this section if the applicant or licensee demonstrates that:

(i) The measure meets the same performance objectives and requirements specified in paragraph (b) of this section; and

(ii) The proposed alternative measure provides protection against radiological sabotage or theft of un-irradiated MOX fuel assemblies, equivalent to that which would be provided by the specific requirement for which it would substitute.

(2) The licensee shall submit proposed alternative measure(s) to the Commission for review and approval in accordance with §§ 50.4 and 50.90 of this chapter before implementation.

(3) In addition to fully describing the desired changes, the licensee shall submit a technical basis for each proposed alternative measure. The basis must include an analysis or assessment that demonstrates how the proposed alternative measure provides a level of protection that is at least equal to that which would otherwise be provided by the specific requirement of this section.

(4) Alternative vehicle barrier systems. In the case of vehicle barrier systems required by § 73.55(e)(10), the licensee shall demonstrate that:

(i) The alternative measure provides protection against the use of a vehicle as a means of transportation to gain proximity to vital areas;

(ii) The alternative measure provides protection against the use of a vehicle as a vehicle bomb; and

(iii) Based on comparison of the costs of the alternative measures to the costs of meeting the Commission's requirements using the essential elements of 10 CFR 50.109, the costs of fully meeting the Commission's requirements are not justified by the protection that would be provided.

■ 13. Section 73.56 is revised to read as follow:

§ 73.56 Personnel access authorization requirements for nuclear power plants.

(a) *Introduction.* (1) By March 31, 2010, each nuclear power reactor licensee, licensed under 10 CFR part 50, shall implement the requirements of this section through revisions to its Commission-approved Physical Security Plan.

(2) The licensee shall establish, implement and maintain its access authorization program in accordance with the requirements of this section.

(3) Each applicant for an operating license under the provisions of part 50 of this chapter, and each holder of a combined license under the provisions of part 52 of this chapter, shall implement the requirements of this section before fuel is allowed on site (protected area).

(4) The licensee or applicant may accept, in part or whole, an access authorization program implemented by a contractor or vendor to satisfy appropriate elements of the licensee's access authorization program in accordance with the requirements of this section. Only a licensee shall grant an individual unescorted access. Licensees and applicants shall certify individuals' unescorted access authorization and are responsible to maintain, deny, terminate, or withdraw unescorted access authorization.

(b) *Applicability.* (1) The following individuals shall be subject to an access authorization program:

(i) Any individual to whom a licensee intends to grant unescorted access to nuclear power plant protected or vital areas or any individual for whom a licensee or an applicant intends to certify unescorted access authorization;

(ii) Any individual whose duties and responsibilities permit the individual to take actions by electronic means, either

on site or remotely, that could adversely impact the licensee's or applicant's operational safety, security, or emergency preparedness;

(iii) Any individual who has responsibilities for implementing a licensee's or applicant's protective strategy, including, but not limited to, armed security force officers, alarm station operators, and tactical response team leaders; and

(iv) The licensee or applicant access authorization program reviewing official or contractor or vendor access authorization program reviewers.

(2) Other individuals, at the licensee's or applicant's discretion, including employees of a contractor or a vendor who are designated in access authorization program procedures, are subject to an access authorization program that meets the requirements of this section.

(c) *General performance objective*. The licensee's or applicant's access authorization program must provide high assurance that the individuals who are specified in paragraph (b)(1), and, if applicable, paragraph (b)(2) of this section are trustworthy and reliable, such that they do not constitute an unreasonable risk to public health and safety or the common defense and security, including the potential to commit radiological sabotage.

(d) *Background investigation*. In order to grant an individual unescorted access to the protected area or vital area of a nuclear power plant or certify an individual unescorted access authorization, licensees, applicants and contractors or vendors shall ensure that the individual has been subject to a background investigation. The background investigation must include, but is not limited to, the following elements:

(1) Informed consent. Licensees, applicants, and contractors or vendors shall not initiate any element of a background investigation without the informed and signed consent of the subject individual. This consent shall include authorization to share personal information with appropriate entities. The licensee or applicant to whom the individual is applying for unescorted access and unescorted access authorization, respectively, or the contractors or vendors supporting the licensee or applicant shall inform the individual of his or her right to review information collected to assure its accuracy, and provide the individual with an opportunity to correct any inaccurate or incomplete information that is developed by licensees, applicants, or contractors or vendors about the individual.

(i) The subject individual may withdraw his or her consent at any time. Licensees, applicants, and contractors or vendors shall inform the individual that:

(A) Withdrawal of his or her consent will remove the individual's application for access authorization under the licensee's or applicant's access authorization program or contractor or vendor access authorization program; and

(B) Other licensees and applicants shall have access to information documenting the withdrawal. Additionally, the contractors or vendors may have the same access to the information, if such information is necessary for assisting licensees or applicants complying with requirements set forth in this section.

(ii) If an individual withdraws his or her consent, licensees, applicants, and contractors or vendors may not initiate any elements of the background investigation that were not in progress at the time the individual withdrew his or her consent, but shall complete any background investigation elements that are in progress at the time consent is withdrawn. The licensee or applicant shall record the status of the individual's application for unescorted access or unescorted access authorization, respectively. Contractors or vendors may record the status of the individual's application for unescorted access or unescorted access authorization for licensees or applicants. Additionally, licensees, applicants, or contractors or vendors shall collect and maintain the individual's application for unescorted access or unescorted access authorization; his or her withdrawal of consent for the background investigation; the reason given by the individual for the withdrawal; and any pertinent information collected from the background investigation elements that were completed. This information must be shared with other licensees in accordance with paragraph (o)(6) of this section.

(iii) Licensees, applicants, and contractors or vendors shall inform, in writing, any individual who is applying for unescorted access or unescorted access authorization that the following actions are sufficient cause for denial or unfavorable termination of unescorted access or unescorted access authorization status:

(A) Refusal to provide a signed consent for the background investigation;

(B) Refusal to provide, or the falsification of, any personal history information required under this section, including the failure to report any previous denial or unfavorable termination of unescorted access or unescorted access authorization;

(C) Refusal to provide signed consent for the sharing of personal information with other licensees, applicants, or the contractor or vendors under paragraph (d)(4)(v) of this section; or

(D) Failure to report any arrests or legal actions specified in paragraph (g) of this section.

(2) Personal history disclosure.

(i) Any individual who is applying for unescorted access or unescorted access authorization shall disclose the personal history information that is required by the licensee's or applicant's access authorization program, including any information that may be necessary for the reviewing official to make a determination of the individual's trustworthiness and reliability.

(ii) Licensees, applicants, and contractors or vendors shall not require an individual to disclose an administrative withdrawal of unescorted access or unescorted access authorization under the requirements of § 73.56(g), (h)(7), or (i)(1)(v) of this section. However, the individual must disclose this information if the individual's unescorted access or unescorted access authorization is administratively withdrawn at the time he or she is seeking unescorted access or unescorted access authorization, or the individual's unescorted access or unescorted access authorization was subsequently denied or terminated unfavorably by a licensee, applicant, or contractor or vendor.

(3) Verification of true identity. Licensees, applicants, and contractors or vendors shall verify the true identity of an individual who is applying for unescorted access or unescorted access authorization in order to ensure that the applicant is the person that he or she has claimed to be. At a minimum, licensees, applicants, and contractors or vendors shall validate that the social security number that the individual has provided is his or hers, and, in the case of foreign nationals, validate the claimed non-immigration status that the individual has provided is correct. In addition, licensees and applicants shall also determine whether the results of the fingerprinting required under § 73.57 confirm the individual's claimed identity, if such results are available.

(4) Employment history evaluation. Licensees, applicants, and contractors or vendors shall ensure that an employment history evaluation has been completed on a best effort basis, by questioning the individual's present and former employers, and by determining

the activities of the individual while unemployed.

(i) For the claimed employment period, the individual must provide the reason for any termination, eligibility for rehire, and other information that could reflect on the individual's trustworthiness and reliability.

(ii) If the claimed employment was military service the individual shall provide a characterization of service, reason for separation, and any disciplinary actions that could affect a trustworthiness and reliability determination.

(iii) If education is claimed in lieu of employment, the individual shall provide any information related to the claimed education that could reflect on the individual's trustworthiness and reliability and, at a minimum, verify that the individual was registered for the classes and received grades that indicate that the individual participated in the educational process during the claimed period.

(iv) If a previous employer, educational institution, or any other entity with which the individual claims to have been engaged fails to provide information or indicates an inability or unwillingness to provide information within 3 business days of the request, the licensee, applicant, or contractor or vendor shall:

(A) Document this refusal or unwillingness in the licensee's, applicant's, or contractor's or vendor's record of the investigation; and

(B) Obtain a confirmation of employment, educational enrollment and attendance, or other form of engagement claimed by the individual from at least one alternate source that has not been previously used.

(v) When any licensee, applicant, contractor, or vendor is seeking the information required for an unescorted access or unescorted access authorization decision under this section and has obtained a signed release from the subject individual authorizing the disclosure of such information, other licensees, applicants, contractors and vendors shall make available the personal or access authorization information requested regarding the denial or unfavorable termination of unescorted access or unescorted access authorization.

(vi) In conducting an employment history evaluation, the licensee, applicant, contractor, or vendor may obtain information and documents by electronic means, including, but not limited to, telephone, facsimile, or e-mail. Licensees, applicants, contractors, or vendors shall make a record of the contents of the telephone call and shall retain that record, and any documents or electronic files obtained electronically, in accordance with paragraph (o) of this section.

(5) Credit history evaluation. Licensees, applicants, contractors and vendors shall ensure that the full credit history of any individual who is applying for unescorted access or unescorted access authorization is evaluated. A full credit history evaluation must include, but is not limited to, an inquiry to detect potential fraud or misuse of social security numbers or other financial identifiers, and a review and evaluation of all of the information that is provided by a national credit-reporting agency about the individual's credit history. For individuals including foreign nationals and United States citizens who have resided outside the United States and do not have established credit history that covers at least the most recent seven years in the United States, the licensee, applicant, contractor or vendor must document all attempts to obtain information regarding the individual's credit history and financial responsibility from some relevant entity located in that other country or countries.

(6) Character and reputation evaluation. Licensees, applicants, contractors, and vendors shall ascertain the character and reputation of an individual who has applied for unescorted access or unescorted access authorization by conducting reference checks. Reference checks may not be conducted with any person who is known to be a close member of the individual's family, including but not limited to, the individual's spouse, parents, siblings, or children, or any individual who resides in the individual's permanent household. The reference checks must focus on the individual's reputation for trustworthiness and reliability.

(7) Criminal history review. The licensee's or applicant's reviewing official shall evaluate the entire criminal history record of an individual who is applying for unescorted access or unescorted access authorization to determine whether the individual has a record of criminal activity that may adversely impact his or her trustworthiness and reliability. A criminal history record must be obtained in accordance with the requirements of § 73.57. For individuals who do not have or are not expected to have unescorted access, a criminal history record of the individual shall be obtained in accordance with the requirements set forth in paragraph (k)(1)(ii) of this section.

(e) *Psychological assessment.* In order to assist in determining an individual's trustworthiness and reliability, licensees, applicants, contractors or vendors shall ensure that a psychological assessment has been completed before the individual is granted unescorted access or certified unescorted access authorization. Individuals who are applying for initial unescorted access or unescorted access authorization, or who have not maintained unescorted access or unescorted access authorization for greater than 365 days, shall be subject to a psychological assessment. The psychological assessment must be designed to evaluate the possible adverse impact of any noted psychological characteristics on the individual's trustworthiness and reliability.

(1) A licensed psychologist or psychiatrist with the appropriate training and experience shall conduct the psychological assessment.

(2) The psychological assessment must be conducted in accordance with the applicable ethical principles for conducting such assessments established by the American Psychological Association or American Psychiatric Association.

(3) At a minimum, the psychological assessment must include the administration and interpretation of a standardized, objective, professionally-accepted psychological test that provides information to identify indications of disturbances in personality or psychopathology that may have adverse implications for an individual's trustworthiness and reliability. A psychiatrist or psychologist specified in paragraph (e) of this section shall establish the predetermined thresholds for each scale, in accordance with paragraph (e)(2) of this section, that must be applied in interpreting the results of the psychological test to determine whether an individual must be interviewed by a licensed psychiatrist or psychologist, under § 73.56(e)(4)(i) of this section.

(4) The psychological assessment must include a clinical interview:

(i) If an individual's scores on the psychological test in paragraph (e)(3) of this section identify indications of disturbances in personality or psychopathology that may have implications for an individual's trustworthiness and reliability; or

(ii) If the individual is a member of the population that performs one or more job functions that are critical to the safe and secure operation of the licensee's facility, as defined in paragraph (i)(1)(v)(B) of this section.

(5) In the course of conducting a psychological assessment for those individuals who are specified in paragraph (h) of this section for initial unescorted access or unescorted access authorization category, if the licensed psychologist or psychiatrist identifies or discovers any information, including a medical condition, that could adversely impact the individual's fitness for duty or trustworthiness and reliability, the licensee, applicant, or contractor or vendor shall ensure that the psychologist or psychiatrist contact appropriate medical personnel to obtain further information as need for a determination. The results of the evaluation and a recommendation shall be provided to the licensee's or applicant's reviewing official.

(6) During psychological reassessments, if the licensed psychologist or psychiatrist identifies or discovers any information, including a medical condition, that could adversely impact the fitness for duty or trustworthiness and reliability of those individuals who are currently granted unescorted access or certified unescorted access authorization status, he or she shall inform (1) the reviewing official of the discovery within 24 hours of the discovery and (2) the medical personnel designated in the site implementing procedures, who shall ensure that an appropriate evaluation of the possible medical condition is conducted under the requirements of part 26 of this chapter. The results of the evaluation and a recommendation shall be provided to the licensee's or applicant's reviewing official.

(f) *Behavioral observation.* (1) Licensee and applicant access authorization programs must include a behavioral observation program that is designed to detect behaviors or activities that may constitute an unreasonable risk to the health and safety of the public and common defense and security, including a potential threat to commit radiological sabotage. Licensees, applicants and contractors or vendors must ensure that the individuals specified in paragraph (b)(1) and, if applicable, (b)(2) of this section are subject to behavioral observation.

(2) Each person subject to the behavior observation program shall be responsible for communicating to the licensee or applicant observed behaviors of individuals subject to the requirements of this section. Such behaviors include any behavior of individuals that may adversely affect the safety or security of the licensee's facility or that may constitute an unreasonable risk to the public health and safety or the common defense and security, including a potential threat to commit radiological sabotage.

(i) Licensees, applicants, and contractors or vendors shall ensure that individuals who are subject to this section also successfully complete initial behavioral observation training and requalification behavior observation training as required in paragraphs (f)(2)(ii) and (iii) of this section.

(ii) Behavioral observation training must be:

(A) Completed before the licensee grants unescorted access or certifies unescorted access authorization or an applicant certifies unescorted access authorization, as defined in paragraph (h)(4)(ii) of this section,

(B) Current before the licensee grants unescorted access update or reinstatement or licensee or applicant certifies unescorted access authorization reinstatement as defined in paragraph (h)(4)(ii) of this section, and

(C) Maintained in a current status during any period of time an individual possesses unescorted access or unescorted access authorization in accordance with paragraph (f)(2)(iv) of this section.

(iii) For initial behavioral observation training, individuals shall demonstrate completion by passing a comprehensive examination that addresses the knowledge and abilities necessary to detect behavior or activities that have the potential to constitute an unreasonable risk to the health and safety of the public and common defense and security, including a potential threat to commit radiological sabotage. Remedial training and re-testing are required for individuals who fail to satisfactorily complete the examination.

(iv) Individuals shall complete refresher training on a nominal 12-month frequency, or more frequently where the need is indicated. Individuals may take and pass a comprehensive examination that meets the requirements of paragraph (f)(2)(iii) of this section in lieu of completing annual refresher training.

(v) Initial and refresher training may be delivered using a variety of media, including, but not limited to, classroom lectures, required reading, video, or computer-based training systems. The licensee, applicant, or contractor or vendor shall monitor the completion of training.

(3) Individuals who are subject to an access authorization program under this section shall at a minimum, report any concerns arising from behavioral observation, including, but not limited to, concerns related to any questionable behavior patterns or activities of others to the reviewing official, his or her supervisor, or other management personnel designated in their site procedures. The recipient of the report shall, if other than the reviewing official, promptly convey the report to the reviewing official, who shall reassess the reported individual's unescorted access or unescorted access authorization status. The reviewing official shall determine the elements of the reassessment based on the accumulated information of the individual. If the reviewing official has a reason to believe that the reported individual's trustworthiness or reliability is questionable, the reviewing official shall either administratively withdraw or terminate the individual's unescorted access or unescorted access authorization while completing the re-evaluation or investigation. If the reviewing official determines from the information provided that there is cause for additional action, the reviewing official may inform the supervisor of the reported individual.

(g) *Self-reporting of legal actions.* (1) Any individual who has applied for unescorted access or unescorted access authorization or is maintaining unescorted access or unescorted access authorization under this section shall promptly report to the reviewing official, his or her supervisor, or other management personnel designated in site procedures any legal action(s) taken by a law enforcement authority or court of law to which the individual has been subject that could result in incarceration or a court order or that requires a court appearance, including but not limited to an arrest, an indictment, the filing of charges, or a conviction, but excluding minor civil actions or misdemeanors such as parking violations or speeding tickets. The recipient of the report shall, if other than the reviewing official, promptly convey the report to the reviewing official. On the day that the report is received, the reviewing official shall evaluate the circumstances related to the reported legal action(s) and re-determine the reported individual's unescorted access or unescorted access authorization status.

(2) The licensee or applicant shall inform the individual of this obligation, in writing, prior to granting unescorted access or certifying unescorted access authorization.

(h) *Granting unescorted access and certifying unescorted access authorization.* Licensees and applicants shall implement the requirements of this paragraph for granting or certifying initial or reinstated unescorted access or unescorted access authorization. The

investigatory information collected to satisfy the requirements of this section for individuals who are being considered for unescorted access or unescorted access authorization shall be valid for a trustworthiness and reliability determination by a licensee or applicant for 30 calendar days.

(1) Determination basis.

(i) The licensee's or applicant's reviewing official shall determine whether to grant, certify, deny, unfavorably terminate, maintain, or administratively withdraw an individual's unescorted access or unescorted access authorization status, based on an evaluation of all of the information required by this section.

(ii) The licensee's or applicant's reviewing official may not grant unescorted access or certify unescorted access authorization status to an individual until all of the information required by this section has been evaluated by the reviewing official and the reviewing official has determined that the accumulated information supports a determination of the individual's trustworthiness and reliability. However, the reviewing official may deny or terminate unescorted access or unescorted access authorization of any individual based on disqualifying information even if not all the information required by this section has been collected or evaluated.

(2) Unescorted access for NRC-certified personnel. Licensees and applicants shall grant unescorted access to any individual who has been certified by the Nuclear Regulatory Commission as suitable for such access.

(3) Access denial. Licensees or applicants may not permit an individual, who is identified as having an access-denied status by another licensee subject to this section, or has an access authorization status other than favorably terminated, to enter any nuclear power plant protected area or vital area, under escort or otherwise, or take actions by electronic means that could adversely impact the licensee's or applicant's safety, security, or emergency response or their facilities, under supervision or otherwise, except upon completion of the initial unescorted access authorization process.

(4) Granting unescorted access and certifying unescorted access authorization.

(i) Initial unescorted access or unescorted access authorization. In satisfying the requirements of paragraph (h)(1) of this section, for individuals who have never held unescorted access or unescorted access authorization status or whose unescorted access or unescorted access authorization status has been interrupted for a period of 3 years or more, the licensee, applicant, or contractor or vendor shall satisfy the requirements of paragraphs (d), (e), (f), and (g) of this section. In meeting requirements set forth in paragraph (d)(4) of this section, the licensee, applicant, or contractor or vendor shall evaluate the 3 years before the date on which the application for unescorted access was submitted, or since the individual's eighteenth birthday, whichever is shorter. For the 1-year period proceeding the date upon which the individual applies for unescorted access or unescorted access authorization, the licensee, applicant or contractor or vendor shall ensure that the employment history evaluation is conducted with every employer, regardless of the length of employment. For the remaining 2-year period, the licensee, applicant, or contractor or vendor shall ensure that the employment history evaluation is conducted with the employer by whom the individual claims to have been employed the longest within each calendar month.

(ii) Reinstatement of Unescorted Access. In satisfying the requirements of paragraph (h)(1) of this section, for individuals who have previously been granted unescorted access or unescorted access authorization, but whose access had been terminated under favorable conditions, licensees, applicants or contractors or vendors shall satisfy the requirements of paragraphs (d), (e), (f), and (g) of this section, with consideration of the specific requirements for periods of interruption described below in paragraphs (h)(4)(ii)(A) or (h)(4)(ii)(B) of this section, as applicable. However, for individuals whose unescorted access or unescorted access authorization was interrupted for less than or equal to 30 calendar days, licensees, applicants, or contractors or vendors must only satisfy the requirements set forth in paragraphs (d)(1), (d)(2), and (d)(3) of this section. The applicable periods of interruption are determined by the number of calendar days between the day after the individual's access was terminated and the day upon which the individual applies for unescorted access or unescorted access authorization.

(A) For individuals whose last unescorted access or unescorted access authorization status has been interrupted for more than 30 calendar days but less than or equal to 365 calendar days, the licensee, applicant or contractor or vendor shall complete the individual's employment history evaluation in accordance with the requirements of paragraph (d)(4) of this section, within 5 business days after reinstatement. The licensee, applicant, or contractor or vendor shall ensure that the employment history evaluation has been conducted with the employer by whom the individual claims to have been employed the longest within the calendar month. However, if the employment history evaluation is not completed within 5 business days of reinstatement due to circumstances that are outside of the licensee's, applicant's, or contractor's or vendor's control and the licensee or applicant, contractor or vendor is not aware of any potentially disqualifying information regarding the individual within the past 5 years, the licensee may extend the individual's unescorted access an additional 5 business days. If the employment history evaluation is not completed within this extended 5 business days, the licensee shall administratively withdraw unescorted access and complete the employment history evaluation in accordance with § 73.56(d)(4) of this section. For re-certification of unescorted access authorization, prior to re-certification of unescorted access authorization status of an individual, the licensee or applicant shall complete all the elements stated above including drug screening and employment evaluation.

(B) For individuals whose last unescorted access or unescorted access authorization status has been interrupted for greater than 365 calendar days but fewer than 3 years the licensee, applicant or contractor or vendor shall evaluate the period of time since the individual last held unescorted access or unescorted access authorization status, up to and including the day the individual applies for re-instated unescorted access authorization. For the 1-year period proceeding the date upon which the individual applies for unescorted access authorization, the licensee, applicant, or contractor or vendor shall ensure that the employment history evaluation is conducted with every employer, regardless of the length of employment. For the remaining period, the licensee, applicant or contractor or vendor shall ensure that the employment history evaluation is conducted with the employer by whom the individual claims to have been employed the longest within each calendar month. In addition, the individual shall be subject to the psychological assessment required in § 73.56(e).

(5) Accepting unescorted access authorization from other access authorization programs. Licensees who are seeking to grant unescorted access or certify unescorted access authorization

or applicants who are seeking to certify unescorted access authorization to an individual who is subject to another access authorization program or another access authorization program that complies with this section may rely on those access authorization programs or access authorization program elements to comply with the requirements of this section. However, the licensee who is seeking to grant unescorted access or the licensee or applicant who is seeking to certify unescorted access authorization shall ensure that the program elements to be accepted have been maintained consistent with the requirements of this section by the other access authorization program.

(6) Information sharing. To meet the requirements of this section, licensees, applicants, and contractors or vendors may rely upon the information that other licensees, applicants, and contractors or vendors who are also subject to this section, have gathered about individuals who have previously applied for unescorted access or unescorted access authorization, and developed about individuals during periods in which the individuals maintained unescorted access or unescorted access authorization status.

(i) Maintaining unescorted access or unescorted access authorization.

(1) Individuals may maintain unescorted access or unescorted access authorization status under the following conditions:

(i) The individual remains subject to a behavioral observation program that complies with the requirements of § 73.56(f) of this section.

(ii) The individual successfully completes behavioral observation refresher training or testing on the nominal 12-month frequency required in § 73.56(f)(2)(ii) of this section.

(iii) The individual complies with the licensee's or applicant's access authorization program policies and procedures to which he or she is subject, including the self-reporting of legal actions responsibility specified in paragraph (g) of this section.

(iv) The individual is subject to an annual supervisory review conducted in accordance with the requirements of the licensee's or applicant's behavioral observation program. The individual shall be subject to a supervisory interview in accordance with the requirements of the licensee's or applicant's behavioral observation program, if the supervisor does not have the frequent interaction with the individual throughout the review period needed to form an informed and reasonable opinion regarding the individual's behavior, trustworthiness, and reliability.

(v) The licensee's or applicant's reviewing official determines that the individual continues to be trustworthy and reliable. This determination must, at a minimum, be based on the following:

(A) A criminal history update and credit history re-evaluation for any individual with unescorted access. The criminal history update and credit history re-evaluation must be completed within 5 years of the date on which these elements were last completed.

(B) For individuals who perform one or more of the job functions described in this paragraph, the trustworthiness and reliability determination must be based on a criminal history update and credit history re-evaluation within three years of the date on which these elements were last completed, or more frequently, based on job assignment as determined by the licensee or applicant, and a psychological re-assessment within 5 years of the date on which this element was last completed:

(*1*) Individuals who have extensive knowledge of defensive strategies and design and/or implementation of the plant's defense strategies, including—

(*i*) Site security supervisors;

(*ii*) Site security managers;

(*iii*) Security training instructors; and

(*iv*) Corporate security managers;

(*2*) Individuals in a position to grant an applicant unescorted access or unescorted access authorization, including site access authorization managers;

(*3*) Individuals assigned a duty to search for contraband or other items that could be used to commit radiological sabotage (*i.e.*, weapons, explosives, incendiary devices);

(*4*) Individuals who have access, extensive knowledge, or administrative control over plant digital computer and communication systems and networks as identified in § 73.54, including—

(*i*) Plant network systems administrators;

(*ii*) IT personnel who are responsible for securing plant networks; or

(*5*) Individuals qualified for and assigned duties as: armed security officers, armed responders, alarm station operators, response team leaders, and armorers as defined in the licensee's or applicant's Physical Security Plan; and reactor operators, senior reactor operators and non-licensed operators. Non-licensed operators include those individuals responsible for the operation of plant systems and components, as directed by a reactor operator or senior reactor operator. A non-licensed operator also includes individuals who monitor plant instrumentation and equipment and principally perform their duties outside of the control room.

(C) The criminal history update and the credit history re-evaluation shall be completed within 30 calendar days of each other.

(vi) If the criminal history update, credit history re-evaluation, psychological re-assessment, if required, and supervisory review and interview, if applicable, have not been completed and the information evaluated by the reviewing official within the time frame specified under paragraph (v) of this section, the licensee or applicant shall administratively withdraw the individual's unescorted access or unescorted access authorization until these requirements have been met.

(2) If an individual who has unescorted access or unescorted access authorization status is not subject to an access authorization program that meets the requirements of this part for more than 30 continuous days, then the licensee or applicant shall terminate the individual's unescorted access or unescorted access authorization status and the individual shall meet the requirements in this section, as applicable, to regain unescorted access or unescorted access authorization.

(j) *Access to vital areas.* Licensees or applicants shall establish, implement, and maintain a list of individuals who are authorized to have unescorted access to specific nuclear power plant vital areas during non-emergency conditions. The list must include only those individuals who have a continued need for access to those specific vital areas in order to perform their duties and responsibilities. The list must be approved by a cognizant licensee or applicant manager or supervisor who is responsible for directing the work activities of the individual who is granted unescorted access to each vital area, and updated and re-approved no less frequently than every 31 days.

(k) *Trustworthiness and reliability of background screeners and access authorization program personnel.* Licensees, applicants, and contractors or vendors shall ensure that any individual who collects, processes, or has access to personal information that is used to make unescorted access or unescorted access authorization determinations under this section has been determined to be trustworthy and reliable.

(1) Background screeners. Licensees, applicants, and contractors or vendors who rely on individuals who are not directly under their control to collect and process information that will be used by a reviewing official to make

unescorted access or unescorted access authorization determinations shall ensure that a trustworthiness and reliability evaluation of such individuals has been completed to support a determination that such individuals are trustworthy and reliable. At a minimum, the following checks are required:

(i) Verify the individual's true identity as specified in paragraph (d)(3) of this section;

(ii) A local criminal history review and evaluation based on information obtained from an appropriate State or local court or agency in which the individual resided;

(iii) A credit history review and evaluation;

(iv) An employment history review and evaluation covering the past 3 years; and

(v) An evaluation of character and reputation.

(2) Access authorization program personnel. Licensees, applicants, and contractors or vendors shall ensure that any individual who evaluates personal information for the purpose of processing applications for unescorted access or unescorted access authorization, including but not limited to a psychologist or psychiatrist who conducts psychological assessments under § 73.56(e), has access to the files, records, and personal information associated with individuals who have applied for unescorted access or unescorted access authorization, or is responsible for managing any databases that contain such files, records, and personal information has been determined to be trustworthy and reliable, as follows:

(i) The individual is subject to an access authorization program that meets the requirements of this section; or

(ii) The licensee, applicant, and contractor or vendor determines that the individual is trustworthy and reliable based upon an evaluation that meets the requirements of § 73.56(d)(1) through (d)(6) and (e) and either a local criminal history review and evaluation as specified in § 73.56(k)(1)(ii) or a criminal history check that meets the requirements of § 73.56(d)(7).

(l) *Review procedures.* Each licensee and applicant shall include a procedure for the notification of individuals who are denied unescorted access, unescorted access authorization, or who are unfavorably terminated. Additionally, procedures must include provisions for the review, at the request of the affected individual, of a denial or unfavorable termination of unescorted access or unescorted access authorization that may adversely affect employment. The procedure must contain a provision to ensure the individual is informed of the grounds for the denial or unfavorable termination and allow the individual an opportunity to provide additional relevant information and an opportunity for an objective review of the information upon which the denial or unfavorable termination of unescorted access or unescorted access authorization was based. The procedure must provide for an impartial and independent internal management review. Licensees and applicants shall not grant unescorted access or certify unescorted access authorization, or permit the individual to maintain unescorted access or unescorted access authorization during the review process.

(m) *Protection of information.* Each licensee, applicant, contractor, or vendor shall establish and maintain a system of files and procedures to ensure personal information is not disclosed to unauthorized persons.

(1) Licensees, applicants and contractors or vendors shall obtain signed consent from the subject individual that authorizes the disclosure of any information collected and maintained under this section before disclosing the information, except for disclosures to the following individuals:

(i) The subject individual or his or her representative, when the individual has designated the representative in writing for specified unescorted access authorization matters;

(ii) NRC representatives;

(iii) Appropriate law enforcement officials under court order;

(iv) A licensee's, applicant's, or contractor's or vendor's representatives who have a need to have access to the information in performing assigned duties, including determinations of trustworthiness and reliability and audits of access authorization programs;

(v) The presiding officer in a judicial or administrative proceeding that is initiated by the subject individual;

(vi) Persons deciding matters under the review procedures in paragraph (k) of this section; or

(vii) Other persons pursuant to court order.

(2) All information pertaining to a denial or unfavorable termination of the individual's unescorted access or unescorted access authorization shall be promptly provided, upon receipt of a written request by the subject individual or his or her designated representative as designated in writing. The licensee or applicant may redact the information to be released to the extent that personal privacy information, including the name of the source of the information is withheld.

(3) A contract with any individual or organization who collects and maintains personal information that is relevant to an unescorted access or unescorted access authorization determination must require that such records be held in confidence, except as provided in paragraphs (m)(1) through (m)(2) of this section.

(4) Licensees, applicants, or contractors or vendors and any individual or organization who collects and maintains personal information on behalf of a licensee, applicant, or contractor or vendor, shall establish, implement, and maintain a system and procedures for the secure storage and handling of the information collected.

(n) *Audits and corrective action.* Each licensee and applicant shall be responsible for the continuing effectiveness of the access authorization program, including access authorization program elements that are provided by the contractors or vendors, and the access authorization programs of any of the contractors or vendors that are accepted by the licensee or applicant. Each licensee, applicant, and contractor or vendor shall ensure that access authorization programs and program elements are audited to confirm compliance with the requirements of this section and those comprehensive actions are taken to correct any non-conformance that is identified.

(1) Each licensee and applicant shall ensure that its entire access authorization program is audited nominally every 24 months. Licensees, applicants and contractors or vendors are responsible for determining the appropriate frequency, scope, and depth of additional auditing activities within the nominal 24-month period based on the review of program performance indicators, such as the frequency, nature, and severity of discovered problems, personnel or procedural changes, and previous audit findings.

(2) Access authorization program services that are provided to a licensee or applicant by contractor or vendor personnel who are off site or are not under the direct daily supervision or observation of the licensee's or applicant's personnel must be audited by the licensee or applicant on a nominal 12-month frequency. In addition, any access authorization program services that are provided to contractors or vendors by subcontractor personnel who are off site or are not under the direct daily supervision or observation of the contractor's or vendor's personnel must be audited by

the licensee or applicant on a nominal 12-month frequency.

(3) Licensee's and applicant's contracts with contractors or vendors must reserve the licensee's or applicant's right to audit the contractors or vendors and the contractor's or vendor's subcontractors providing access authorization program services at any time, including at unannounced times, as well as to review all information and documentation that is reasonably relevant to the performance of the program.

(4) Licensee's and applicant's contracts with the contractors or vendors, and contractors' or vendors' contracts with subcontractors, must also require that the licensee or applicant shall be provided access to and be permitted to take away copies of any documents or data that may be needed to assure that the contractor or vendor and its subcontractors are performing their functions properly and that staff and procedures meet applicable requirements.

(5) Audits must focus on the effectiveness of the access authorization program or program element(s), as appropriate. At least one member of the licensee or applicant audit team shall be a person who is knowledgeable of and practiced with meeting the performance objectives and requirements of the access authorization program or program elements being audited. The individuals performing the audit of the access authorization program or program element(s) shall be independent from both the subject access authorization programs' management and from personnel who are directly responsible for implementing the access authorization program or program elements being audited.

(6) The results of the audits, along with any recommendations, must be documented in the site corrective action program in accordance with § 73.55(b)(10) and reported to senior management having responsibility in the area audited and to management responsible for the access authorization program. Each audit report must identify conditions that are adverse to the proper performance of the access authorization program, the cause of the condition(s), and, when appropriate, recommended corrective actions, and corrective actions taken. The licensee, applicant, or contractor or vendor shall review the audit findings and take any additional corrective actions, to include re-auditing of the deficient areas where indicated, to preclude repetition of the condition.

(7) Licensees and applicants may jointly conduct audits, or may accept audits of the contractors or vendors that were conducted by other licensees and applicants who are subject to this section, if the audit addresses the services obtained from the contractor or vendor by each of the sharing licensees and applicants. The contractors or vendors may jointly conduct audits, or may accept audits of its subcontractors that were conducted by other licensees, applicants, or contractors or vendors who are subject to this section, if the audit addresses the services obtained from the subcontractor by each of the sharing licensees, applicants, and the contractors or vendors.

(i) Licensees, applicants, and contractors or vendors shall review audit records and reports to identify any areas that were not covered by the shared or accepted audit and ensure that authorization program elements and services upon which the licensee, applicant, or contractor or vendor relies are audited, if the program elements and services were not addressed in the shared audit.

(ii) Sharing licensees and applicants need not re-audit the same contractor or vendor for the same time. Sharing contractors or vendors need not re-audit the same subcontractor for the same time.

(iii) Sharing licensees, applicants, and contractors or vendors shall maintain a copy of the shared audits, including findings, recommendations, and corrective actions.

(o) *Records.* Licensee, applicants, and contractors or vendors shall maintain the records that are required by the regulations in this section for the period specified by the appropriate regulation. If a retention period is not otherwise specified, these records must be retained until the Commission terminates the facility's license, certificate, or other regulatory approval.

(1) Records may be stored and archived electronically, provided that the method used to create the electronic records meets the following criteria:

(i) Provides an accurate representation of the original records;

(ii) Prevents unauthorized access to the records;

(iii) Prevents the alteration of any archived information and/or data once it has been committed to storage; and

(iv) Permits easy retrieval and re-creation of the original records.

(2) Licensees and applicants who are subject to this section shall retain the following records:

(i) Records of the information that must be collected under paragraphs (d) and (e) of this section that results in the granting of unescorted access or rtifying of unescorted access authorization for at least 5 years after the licensee or applicant terminates or denies an individual's unescorted access or unescorted access authorization or until the completion of all related legal proceedings, whichever is later;

(ii) Records pertaining to denial or unfavorable termination of unescorted access or unescorted access authorization and related management actions for at least 5 years after the licensee or applicant terminates or denies an individual's unescorted access or unescorted access authorization or until the completion of all related legal proceedings, whichever is later; and

(iii) Documentation of the granting and termination of unescorted access or unescorted access authorization for at least 5 years after the licensee or applicant terminates or denies an individual's unescorted access or unescorted access authorization or until the completion of all related legal proceedings, whichever is later. Contractors or vendors may maintain the records that are or were pertinent to granting, certifying, denying, or terminating unescorted access or unescorted access authorization that they collected for licensees or applicants. If the contractors or vendors maintain the records on behalf of a licensee or an applicant, they shall follow the record retention requirement specified in this section. Upon termination of a contract between the contractor and vendor and a licensee or applicant, the contractor or vendor shall provide the licensee or applicant with all records collected for the licensee or applicant under this chapter.

(3) Licensees, applicants, and contractors or vendors shall retain the following records for at least 3 years or until the completion of all related proceedings, whichever is later:

(i) Records of behavioral observation training conducted under paragraph (f)(2) of this section; and

(ii) Records of audits, audit findings, and corrective actions taken under paragraph (n) of this section.

(4) Licensees, applicants, and contractors or vendors shall retain written agreements for the provision of services under this section, for three years after termination or completion of the agreement, or until completion of all proceedings related to a denial or unfavorable termination of unescorted access or unescorted access authorization that involved those services, whichever is later.

(5) Licensees, applicants, and contractors or vendors shall retain

records of the background investigations, psychological assessments, supervisory reviews, and behavior observation program actions related to access authorization program personnel, conducted under paragraphs (d) and (e) of this section, for the length of the individual's employment by or contractual relationship with the licensee, applicant, or the contractor or vendor and three years after the termination of employment, or until the completion of any proceedings relating to the actions of such access authorization program personnel, whichever is later.

(6) Licensees, applicants, and the contractors or vendors who have been authorized to add or manipulate data that is shared with licensees subject to this section shall ensure that data linked to the information about individuals who have applied for unescorted access or unescorted access authorization, which is specified in the licensee's or applicant's access authorization program documents, is retained.

(i) If the shared information used for determining individual's trustworthiness and reliability changes or new or additional information is developed about the individual, the licensees, applicants, and the contractors or vendors that acquire this information shall correct or augment the data and ensure it is shared with licensees subject to this section. If the changed, additional or developed information has implications for adversely affecting an individual's trustworthiness and reliability, the licensee, applicant, or the contractor or vendor who discovered or obtained the new, additional or changed information, shall, on the day of discovery, inform the reviewing official of any licensee or applicant access authorization program under which the individual is maintaining his or her unescorted access or unescorted access authorization status of the updated information.

(ii) The reviewing official shall evaluate the shared information and take appropriate actions, which may include denial or unfavorable termination of the individual's unescorted access authorization. If the notification of change or updated information cannot be made through usual methods, licensees, applicants, and the contractors or vendors shall take manual actions to ensure that the information is shared as soon as reasonably possible. Records maintained in any database(s) must be available for NRC review.

(7) If a licensee or applicant administratively withdraws an individual's unescorted access or unescorted access authorization status caused by a delay in completing any portion of the background investigation or for a licensee or applicant initiated evaluation, or re-evaluation that is not under the individual's control, the licensee or applicant shall record this administrative action to withdraw the individual's unescorted access or unescorted access authorization with other licensees subject to this section. However, licensees and applicants shall not document this administrative withdrawal as denial or unfavorable termination and shall not respond to a suitable inquiry conducted under the provisions of 10 CFR parts 26, a background investigation conducted under the provisions of this section, or any other inquiry or investigation as denial nor unfavorable termination. Upon favorable completion of the background investigation element that caused the administrative withdrawal, the licensee or applicant shall immediately ensure that any matter that could link the individual to the administrative action is eliminated from the subject individual's access authorization or personnel record and other records, except if a review of the information obtained or developed causes the reviewing official to unfavorably terminate or deny the individual's unescorted access.

■ 14. Section 73.58 is added to read as follows:

§ 73.58 Safety/security interface requirements for nuclear power reactors.

(a) Each operating nuclear power reactor licensee with a license issued under part 50 or 52 of this chapter shall comply with the requirements of this section.

(b) The licensee shall assess and manage the potential for adverse effects on safety and security, including the site emergency plan, before implementing changes to plant configurations, facility conditions, or security.

(c) The scope of changes to be assessed and managed must include planned and emergent activities (such as, but not limited to, physical modifications, procedural changes, changes to operator actions or security assignments, maintenance activities, system reconfiguration, access modification or restrictions, and changes to the security plan and its implementation).

(d) Where potential conflicts are identified, the licensee shall communicate them to appropriate licensee personnel and take compensatory and/or mitigative actions to maintain safety and security under applicable Commission regulations, requirements, and license conditions.

■ 15. In appendix B to part 73:

■ a. Add a new section heading VI to the Table of Contents.

■ b. Amend the Introduction by adding a new paragraph to the beginning of the text, and

■ c. Add section VI to the end of the appendix to read as follows:

Appendix B to Part 73—General Criteria for Security Personnel

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VI. Nuclear Power Reactor Training and Qualification Plan for Personnel Performing Security Program Duties

A. General Requirements and Introduction
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Introduction

Applicants and power reactor licensees subject to the requirements of § 73.55 shall comply only with the requirements of section VI of this appendix. All other licensees, applicants, or certificate holders shall comply only with sections I through V of this appendix.

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VI. Nuclear Power Reactor Training and Qualification Plan for Personnel Performing Security Program Duties

A. General Requirements and Introduction

1. The licensee shall ensure that all individuals who are assigned duties and responsibilities required to prevent significant core damage and spent fuel sabotage, implement the Commission-approved security plans, licensee response strategy, and implementing procedures, meet minimum training and qualification requirements to ensure each individual possesses the knowledge, skills, and abilities required to effectively perform the assigned duties and responsibilities.

2. To ensure that those individuals who are assigned to perform duties and responsibilities required for the implementation of the Commission-approved security plans, licensee response strategy, and implementing procedures are properly suited, trained, equipped, and qualified to perform their assigned duties and responsibilities, the Commission has developed minimum training and qualification requirements that must be implemented through a Commission-approved training and qualification plan.

3. The licensee shall establish, maintain, and follow a Commission-approved training and qualification plan, describing how the

minimum training and qualification requirements set forth in this appendix will be met, to include the processes by which all individuals, will be selected, trained, equipped, tested, and qualified.

4. Each individual assigned to perform security program duties and responsibilities required to effectively implement the Commission-approved security plans, licensee protective strategy, and the licensee implementing procedures, shall demonstrate the knowledge, skills, and abilities required to effectively perform the assigned duties and responsibilities before the individual is assigned the duty or responsibility.

5. The licensee shall ensure that the training and qualification program simulates, as closely as practicable, the specific conditions under which the individual shall be required to perform assigned duties and responsibilities.

6. The licensee may not allow any individual to perform any security function, assume any security duties or responsibilities, or return to security duty, until that individual satisfies the training and qualification requirements of this appendix and the Commission-approved training and qualification plan, unless specifically authorized by the Commission.

7. Annual requirements must be scheduled at a nominal twelve (12) month periodicity. Annual requirements may be completed up to three (3) months before or three (3) months after the scheduled date. However, the next annual training must be scheduled twelve (12) months from the previously scheduled date rather than the date the training was actually completed.

B. Employment Suitability and Qualification

1. Suitability.

(a) Before employment, or assignment to the security organization, an individual shall:

(1) Possess a high school diploma or pass an equivalent performance examination designed to measure basic mathematical, language, and reasoning skills, abilities, and knowledge required to perform security duties and responsibilities;

(2) Have attained the age of 21 for an armed capacity or the age of 18 for an unarmed capacity; and

(3) Not have any felony convictions that reflect on the individual's reliability.

(4) Individuals in an armed capacity, would not be disqualified from possessing or using firearms or ammunition in accordance with applicable state or Federal law, to include 18 U.S.C. 922. Licensees shall use information that has been obtained during the completion of the individual's background investigation for unescorted access to determine suitability. Satisfactory completion of a firearms background check for the individual under 10 CFR 73.19 of this part will also fulfill this requirement.

(b) The qualification of each individual to perform assigned duties and responsibilities must be documented by a qualified training instructor and attested to by a security supervisor.

2. Physical qualifications.

(a) General physical qualifications.

(1) Individuals whose duties and responsibilities are directly associated with the effective implementation of the Commission-approved security plans, licensee protective strategy, and implementing procedures, may not have any physical conditions that would adversely affect their performance of assigned security duties and responsibilities.

(2) Armed and unarmed individuals assigned security duties and responsibilities shall be subject to a physical examination designed to measure the individual's physical ability to perform assigned duties and responsibilities as identified in the Commission-approved security plans, licensee protective strategy, and implementing procedures.

(3) This physical examination must be administered by a licensed health professional with the final determination being made by a licensed physician to verify the individual's physical capability to perform assigned duties and responsibilities.

(4) The licensee shall ensure that both armed and unarmed individuals who are assigned security duties and responsibilities identified in the Commission-approved security plans, the licensee protective strategy, and implementing procedures, meet the following minimum physical requirements, as required to effectively perform their assigned duties.

(b) Vision.

(1) For each individual, distant visual acuity in each eye shall be correctable to 20/30 (Snellen or equivalent) in the better eye and
20/40 in the other eye with eyeglasses or contact lenses.

(2) Near visual acuity, corrected or uncorrected, shall be at least 20/40 in the better eye.

(3) Field of vision must be at least 70 degrees horizontal meridian in each eye.

(4) The ability to distinguish red, green, and yellow colors is required.

(5) Loss of vision in one eye is disqualifying.

(6) Glaucoma is disqualifying, unless controlled by acceptable medical or surgical means, provided that medications used for controlling glaucoma do not cause undesirable side effects which adversely affect the individual's ability to perform assigned security duties, and provided the visual acuity and field of vision requirements stated previously are met.

(7) On-the-job evaluation must be used for individuals who exhibit a mild color vision defect.

(8) If uncorrected distance vision is not at least 20/40 in the better eye, the individual shall carry an extra pair of corrective lenses in the event that the primaries are damaged. Corrective eyeglasses must be of the safety glass type.

(9) The use of corrective eyeglasses or contact lenses may not interfere with an individual's ability to effectively perform assigned duties and responsibilities during normal or emergency conditions.

(c) Hearing.

(1) Individuals may not have hearing loss in the better ear greater than 30 decibels average at 500 Hz, 1,000 Hz, and 2,000 Hz with no level greater than 40 decibels at any one frequency.

(2) A hearing aid is acceptable provided suitable testing procedures demonstrate auditory acuity equivalent to the hearing requirement.

(3) The use of a hearing aid may not decrease the effective performance of the individual's assigned security duties during normal or emergency operations.

(d) Existing medical conditions.

(1) Individuals may not have an established medical history or medical diagnosis of existing medical conditions which could interfere with or prevent the individual from effectively performing assigned duties and responsibilities.

(2) If a medical condition exists, the individual shall provide medical evidence that the condition can be controlled with medical treatment in a manner which does not adversely affect the individual's fitness-for-duty, mental alertness, physical condition, or capability to otherwise effectively perform assigned duties and responsibilities.

(e) Addiction. Individuals may not have any established medical history or medical diagnosis of habitual alcoholism or drug addiction, or, where this type of condition has existed, the individual shall provide certified documentation of having completed a rehabilitation program which would give a reasonable degree of confidence that the individual would be capable of effectively performing assigned duties and responsibilities.

(f) Other physical requirements. An individual who has been incapacitated due to a serious illness, injury, disease, or operation, which could interfere with the effective performance of assigned duties and responsibilities shall, before resumption of assigned duties and responsibilities, provide medical evidence of recovery and ability to perform these duties and responsibilities.

3. Psychological qualifications.

(a) Armed and unarmed individuals shall demonstrate the ability to apply good judgment, mental alertness, the capability to implement instructions and assigned tasks, and possess the acuity of senses and ability of expression sufficient to permit accurate communication by written, spoken, audible, visible, or other signals required by assigned duties and responsibilities.

(b) A licensed psychologist, psychiatrist, or physician trained in part to identify emotional instability shall determine whether armed members of the security organization and alarm station operators in addition to meeting the requirement stated in paragraph (a) of this section, have no emotional instability that would interfere with the effective performance of assigned duties and responsibilities.

(c) A person professionally trained to identify emotional instability shall determine whether unarmed individuals in addition to meeting the requirement stated in paragraph (a) of this section, have no emotional instability that would interfere with the effective performance of assigned duties and responsibilities.

4. Medical examinations and physical fitness qualifications.

(a) Armed members of the security organization shall be subject to a medical examination by a licensed physician, to determine the individual's fitness to participate in physical fitness tests.

(1) The licensee shall obtain and retain a written certification from the licensed physician that no medical conditions were disclosed by the medical examination that would preclude the individual's ability to participate in the physical fitness tests or meet the physical fitness attributes or objectives associated with assigned duties.

(b) Before assignment, armed members of the security organization shall demonstrate physical fitness for assigned duties and responsibilities by performing a practical physical fitness test.

(1) The physical fitness test must consider physical conditions such as strenuous activity, physical exertion, levels of stress, and exposure to the elements as they pertain to each individual's assigned security duties for both normal and emergency operations and must simulate site specific conditions under which the individual will be required to perform assigned duties and responsibilities.

(2) The licensee shall describe the physical fitness test in the Commission-approved training and qualification plan.

(3) The physical fitness test must include physical attributes and performance objectives which demonstrate the strength, endurance, and agility, consistent with assigned duties in the Commission-approved security plans, licensee protective strategy, and implementing procedures during normal and emergency conditions.

(4) The physical fitness qualification of each armed member of the security organization must be documented by a qualified training instructor and attested to by a security supervisor.

5. Physical requalification.

(a) At least annually, armed and unarmed individuals shall be required to demonstrate the capability to meet the physical requirements of this appendix and the licensee training and qualification plan.

(b) The physical requalification of each armed and unarmed individual must be documented by a qualified training instructor and attested to by a security supervisor.

C. Duty Training

1. Duty training and qualification requirements. All personnel who are assigned to perform any security-related duty or responsibility shall be trained and qualified to perform assigned duties and responsibilities to ensure that each individual possesses the minimum knowledge, skills, and abilities required to effectively carry out those assigned duties and responsibilities.

(a) The areas of knowledge, skills, and abilities that are required to perform assigned duties and responsibilities must be identified in the licensee's Commission-approved training and qualification plan.

(b) Each individual who is assigned duties and responsibilities identified in the Commission-approved security plans, licensee protective strategy, and implementing procedures shall, before assignment:

(1) Be trained to perform assigned duties and responsibilities in accordance with the requirements of this appendix and the Commission-approved training and qualification plan.

(2) Meet the minimum qualification requirements of this appendix and the Commission-approved training and qualification plan.

(3) Be trained and qualified in the use of all equipment or devices required to effectively perform all assigned duties and responsibilities.

2. On-the-job training.

(a) The licensee training and qualification program must include on-the-job training performance standards and criteria to ensure that each individual demonstrates the requisite knowledge, skills, and abilities needed to effectively carry-out assigned duties and responsibilities in accordance with the Commission-approved security plans, licensee protective strategy, and implementing procedures, before the individual is assigned the duty or responsibility.

(b) In addition to meeting the requirement stated in paragraph C.2.(a) of this appendix, before assignment, individuals (*e.g.* response team leaders, alarm station operators, armed responders, and armed security officers designated as a component of the protective strategy) assigned duties and responsibilities to implement the Safeguards Contingency Plan shall complete a minimum of 40 hours of on-the-job training to demonstrate their ability to effectively apply the knowledge, skills, and abilities required to effectively perform assigned *contingency* duties and responsibilities in accordance with the approved safeguards contingency plan, other security plans, licensee protective strategy, and implementing procedures. On-the-job training must be documented by a qualified training instructor and attested to by a security supervisor.

(c) On-the-job training for contingency activities and drills must include, but is not limited to, hands-on application of knowledge, skills, and abilities related to:

(1) Response team duties.
(2) Use of force.
(3) Tactical movement.
(4) Cover and concealment.
(5) Defensive positions.
(6) Fields-of-fire.
(7) Re-deployment.
(8) Communications (primary and alternate).
(9) Use of assigned equipment.
(10) Target sets.
(11) Table top drills.
(12) Command and control duties.
(13) Licensee Protective Strategy.

3. Performance Evaluation Program.

(a) Licensees shall develop, implement and maintain a Performance Evaluation Program that is documented in procedures which describes how the licensee will demonstrate and assess the effectiveness of their onsite physical protection program and protective strategy, including the capability of the armed response team to carry out their assigned duties and responsibilities during safeguards contingency events. The Performance Evaluation Program and procedures shall be referenced in the licensee's Training and Qualifications Plan.

(b) The Performance Evaluation Program shall include procedures for the conduct of tactical response drills and force-on-force exercises designed to demonstrate and assess the effectiveness of the licensee's physical protection program, protective strategy and contingency event response by all individuals with responsibilities for implementing the safeguards contingency plan.

(c) The licensee shall conduct tactical response drills and force-on-force exercises in accordance with Commission-approved security plans, licensee protective strategy, and implementing procedures.

(d) Tactical response drills and force-on-force exercises must be designed to challenge the site protective strategy against elements of the design basis threat and ensure each participant assigned security duties and responsibilities identified in the Commission-approved security plans, the licensee protective strategy, and implementing procedures demonstrate the requisite knowledge, skills, and abilities.

(e) Tactical response drills, force-on-force exercises, and associated contingency response training shall be conducted under conditions that simulate, as closely as practicable, the site-specific conditions under which each member will, or may be, required to perform assigned duties and responsibilities.

(f) The scope of tactical response drills conducted for training purposes shall be determined by the licensee and must address site-specific, individual or programmatic elements, and may be limited to specific portions of the site protective strategy.

(g) Each tactical response drill and force-on-force exercise shall include a documented post-exercise critique in which participants identify failures, deficiencies or other findings in performance, plans, equipment or strategies.

(h) Licensees shall document scenarios and participants for all tactical response drills and annual force-on-force exercises conducted.

(i) Findings, deficiencies and failures identified during tactical response drills and force-on-force exercises that adversely affect or decrease the effectiveness of the protective strategy and physical protection program shall be entered into the licensee's corrective action program to ensure that timely corrections are made to the appropriate program areas.

(j) Findings, deficiencies and failures associated with the onsite physical protection program and protective strategy shall be protected as necessary in accordance with the requirements of 10 CFR 73.21.

(k) For the purpose of tactical response drills and force-on-force exercises, licensees shall:

(1) Use no more than the total number of armed responders and armed security officers documented in the security plans.

(2) Minimize the number and effects of artificialities associated with tactical response drills and force-on-force exercises.

(3) Implement the use of systems or methodologies that simulate the realities of armed engagement through visual and audible means, and reflect the capabilities of armed personnel to neutralize a target though the use of firearms.

(4) Ensure that each scenario used provides a credible, realistic challenge to the

protective strategy and the capabilities of the security response organization.

(l) The Performance Evaluation Program must be designed to ensure that:

(1) Each member of each shift who is assigned duties and responsibilities required to implement the safeguards contingency plan and licensee protective strategy participates in at least one (1) tactical response drill on a quarterly basis and one (1) force-on-force exercise on an annual basis. Force-on-force exercises conducted to satisfy the NRC triennial evaluation requirement can be used to satisfy the annual force-on-force requirement for the personnel that participate in the capacity of the security response organization.

(2) The mock adversary force replicates, as closely as possible, adversary characteristics and capabilities of the design basis threat described in 10 CFR 73.1(a)(1), and is capable of exploiting and challenging the licensees protective strategy, personnel, command and control, and implementing procedures.

(3) Protective strategies can be evaluated and challenged through the conduct of tactical response tabletop demonstrations.

(4) Drill and exercise controllers are trained and qualified to ensure that each controller has the requisite knowledge and experience to control and evaluate exercises.

(5) Tactical response drills and force-on-force exercises are conducted safely and in accordance with site safety plans.

(m) Scenarios.

(1) Licensees shall develop and document multiple scenarios for use in conducting quarterly tactical response drills and annual force-on-force exercises.

(2) Licensee scenarios must be designed to test and challenge any components or combination of components, of the onsite physical protection program and protective strategy.

(3) Each scenario must use a unique target set or target sets, and varying combinations of adversary equipment, strategies, and tactics, to ensure that the combination of all scenarios challenges every component of the onsite physical protection program and protective strategy to include, but not limited to, equipment, implementing procedures, and personnel.

D. Duty Qualification and Requalification

1. Qualification demonstration.

(a) Armed and unarmed individuals shall demonstrate the required knowledge, skills, and abilities to carry out assigned duties and responsibilities as stated in the Commission-approved security plans, licensee protective strategy, and implementing procedures.

(b) This demonstration must include written exams and hands-on performance demonstrations.

(1) Written Exams. The written exams must include those elements listed in the Commission-approved training and qualification plan and shall require a minimum score of 80 percent to demonstrate an acceptable understanding of assigned duties and responsibilities, to include the recognition of potential tampering involving both safety and security equipment and systems.

(2) Hands-on Performance Demonstrations. Armed and unarmed individuals shall demonstrate hands-on performance for assigned duties and responsibilities by performing a practical hands-on demonstration for required tasks. The hands-on demonstration must ensure that theory and associated learning objectives for each required task are considered and each individual demonstrates the knowledge, skills, and abilities required to effectively perform the task.

(3) Annual Written Exam. Armed individuals shall be administered an annual written exam that demonstrates the required knowledge, skills, and abilities to carry out assigned duties and responsibilities as an armed member of the security organization. The annual written exam must include those elements listed in the Commission-approved training and qualification plan and shall require a minimum score of 80 percent to demonstrate an acceptable understanding of assigned duties and responsibilities.

(c) Upon request by an authorized representative of the Commission, any individual assigned to perform any security-related duty or responsibility shall demonstrate the required knowledge, skills, and abilities for each assigned duty and responsibility, as stated in the Commission-approved security plans, licensee protective strategy, or implementing procedures.

2. Requalification.

(a) Armed and unarmed individuals shall be requalified at least annually in accordance with the requirements of this appendix and the Commission-approved training and qualification plan.

(b) The results of requalification must be documented by a qualified training instructor and attested by a security supervisor.

E. Weapons Training

1. General firearms training.

(a) Armed members of the security organization shall be trained and qualified in accordance with the requirements of this appendix and the Commission-approved training and qualification plan.

(b) Firearms instructors.

(1) Each armed member of the security organization shall be trained and qualified by a certified firearms instructor for the use and maintenance of each assigned weapon to include but not limited to, marksmanship, assembly, disassembly, cleaning, storage, handling, clearing, loading, unloading, and reloading, for each assigned weapon.

(2) Firearms instructors shall be certified from a national or state recognized entity.

(3) Certification must specify the weapon or weapon type(s) for which the instructor is qualified to teach.

(4) Firearms instructors shall be recertified in accordance with the standards recognized by the certifying national or state entity, but in no case shall recertification exceed three (3) years.

(c) Annual firearms familiarization. The licensee shall conduct annual firearms familiarization training in accordance with the Commission-approved training and qualification plan.

(d) The Commission-approved training and qualification plan shall include, but is not limited to, the following areas:

(1) Mechanical assembly, disassembly, weapons capabilities and fundamentals of marksmanship.

(2) Weapons cleaning and storage.

(3) Combat firing, day and night.

(4) Safe weapons handling.

(5) Clearing, loading, unloading, and reloading.

(6) Firing under stress.

(7) Zeroing duty weapon(s) and weapons sighting adjustments.

(8) Target identification and engagement.

(9) Weapon malfunctions.

(10) Cover and concealment.

(11) Weapon familiarization.

(e) The licensee shall ensure that each armed member of the security organization is instructed on the use of deadly force as authorized by applicable state law.

(f) Armed members of the security organization shall participate in weapons range activities on a nominal four (4) month periodicity. Performance may be conducted up to five (5) weeks before, to five (5) weeks after, the scheduled date. The next scheduled date must be four (4) months from the originally scheduled date.

F. Weapons Qualification and Requalification Program

1. General weapons qualification requirements.

(a) Qualification firing must be accomplished in accordance with Commission requirements and the Commission-approved training and qualification plan for assigned weapons.

(b) The results of weapons qualification and requalification must be documented and retained as a record.

2. Tactical weapons qualification. The licensee Training and Qualification Plan must describe the firearms used, the firearms qualification program, and other tactical training required to implement the Commission-approved security plans, licensee protective strategy, and implementing procedures. Licensee developed tactical qualification and re-qualification courses must describe the performance criteria needed to include the site specific conditions (such as lighting, elevation, fields-of-fire) under which assigned personnel shall be required to carry-out their assigned duties.

3. Firearms qualification courses. The licensee shall conduct the following qualification courses for each weapon used.

(a) Annual daylight qualification course. Qualifying score must be an accumulated total of 70 percent with handgun and shotgun, and 80 percent with semiautomatic rifle and/or enhanced weapons, of the maximum obtainable target score.

(b) Annual night fire qualification course. Qualifying score must be an accumulated total of 70 percent with handgun and shotgun, and 80 percent with semiautomatic rifle and/or enhanced weapons, of the maximum obtainable target score.

(c) Annual tactical qualification course. Qualifying score must be an accumulated total of 80 percent of the maximum obtainable score.

4. Courses of fire.

(a) Handgun. Armed members of the security organization, assigned duties and

responsibilities involving the use of a revolver or semiautomatic pistol shall qualify in accordance with standards established by a law enforcement course, or an equivalent nationally recognized course.

(b) Semiautomatic rifle. Armed members of the security organization, assigned duties and responsibilities involving the use of a semiautomatic rifle shall qualify in accordance with the standards established by a law enforcement course, or an equivalent nationally recognized course.

(c) Shotgun. Armed members of the security organization, assigned duties and responsibilities involving the use of a shotgun shall qualify in accordance with standards established by a law enforcement course, or an equivalent nationally recognized course.

(d) Enhanced weapons. Armed members of the security organization, assigned duties and responsibilities involving the use of any weapon or weapons not described previously shall qualify in accordance with applicable standards established by a law enforcement course or an equivalent nationally recognized course for these weapons.

5. Firearms requalification.

(a) Armed members of the security organization shall be re-qualified for each assigned weapon at least annually in accordance with Commission requirements and the Commission-approved training and qualification plan, and the results documented and retained as a record.

(b) Firearms requalification must be conducted using the courses of fire outlined in paragraphs F.2, F.3, and F.4 of this section.

G. Weapons, Personal Equipment and Maintenance

1. Weapons. The licensee shall provide armed personnel with weapons that are capable of performing the function stated in the Commission-approved security plans, licensee protective strategy, and implementing procedures.

2. Personal equipment.

(a) The licensee shall ensure that each individual is equipped or has ready access to all personal equipment or devices required for the effective implementation of the Commission-approved security plans, licensee protective strategy, and implementing procedures.

(b) The licensee shall provide armed security personnel, required for the effective implementation of the Commission-approved Safeguards Contingency Plan and implementing procedures, at a minimum, but is not limited to, the following:

(1) Gas mask, full face.

(2) Body armor (bullet-resistant vest).

(3) Ammunition/equipment belt.

(4) Two-way portable radios, 2 channels minimum, 1 operating and 1 emergency.

(c) Based upon the licensee protective strategy and the specific duties and responsibilities assigned to each individual, the licensee should provide, as appropriate, but is not limited to, the following.

(1) Flashlights and batteries.

(2) Baton or other non-lethal weapons.

(3) Handcuffs.

(4) Binoculars.

(5) Night vision aids (*e.g.*, goggles, weapons sights).

(6) Hand-fired illumination flares or equivalent.

(7) Duress alarms.

3. Maintenance.

(a) Firearms maintenance program. Each licensee shall implement a firearms maintenance and accountability program in accordance with the Commission regulations and the Commission-approved training and qualification plan. The program must include:

(1) Semiannual test firing for accuracy and functionality.

(2) Firearms maintenance procedures that include cleaning schedules and cleaning requirements.

(3) Program activity documentation.

(4) Control and accountability (weapons and ammunition).

(5) Firearm storage requirements.

(6) Armorer certification.

H. Records

1. The licensee shall retain all reports, records, or other documentation required by this appendix in accordance with the requirements of § 73.55(r).

2. The licensee shall retain each individual's initial qualification record for three (3) years after termination of the individual's employment and shall retain each re-qualification record for three (3) years after it is superseded.

3. The licensee shall document data and test results from each individual's suitability, physical, and psychological qualification and shall retain this documentation as a record for three (3) years from the date of obtaining and recording these results.

I. Reviews

The licensee shall review the Commission-approved training and qualification program in accordance with the requirements of § 73.55(n).

J. Definitions

Terms defined in parts 50, 70, and 73 of this chapter have the same meaning when used in this appendix.

■ 16. In appendix C to part 73, the heading for appendix C is revised as set out below, a heading for section I and a new introductory paragraph are added before the Introduction section, and section II is added at the end of the appendix to read as follows:

Appendix C to Part 73—Nuclear Power Plant Safeguards Contingency Plans

I. Safeguards Contingency Plan

Licensee, applicants, and certificate holders, with the exception of those who are subject to the requirements of § 73.55 shall comply with the requirements of this section.

* * * * *

II. Nuclear Power Plant Safeguards Contingency Plans

A. Introduction

The safeguards contingency plan is a documented plan that describes how licensee personnel implement their physical protection program to defend against threats to their facility, up to and including the design basis threat of radiological sabotage. The goals of licensee safeguards contingency plans are:

(1) To organize the response effort at the licensee level;

(2) To provide predetermined, structured response by licensees to safeguards contingencies;

(3) To ensure the integration of the licensee response by other entities; and

(4) To achieve a measurable performance in response capability.

Licensee safeguards contingency planning should result in organizing the licensee's resources in such a way that the participants will be identified, their responsibilities specified, and the responses coordinated. The responses should be timely, and include personnel who are trained and qualified to respond in accordance with a documented training and qualification program.

The evaluation, validation, and testing of this portion of the program shall be conducted in accordance with appendix B of this part, General Criteria for Security Personnel. The licensee's safeguards contingency plan is intended to maintain effectiveness during the implementation of emergency plans developed under appendix E to part 50 of this chapter.

B. Contents of the Plan

Each safeguards contingency plan shall include five (5) categories of information:

(1) Background.

(2) Generic planning base.

(3) Licensee planning base.

(4) Responsibility matrix.

(5) Implementing procedures.

Although the implementing procedures (the fifth category of plan information) are the culmination of the planning process, and are an integral and important part of the safeguards contingency plan, they entail operating details subject to frequent changes. They need not be submitted to the Commission for approval, but are subject to inspection by NRC staff on a periodic basis.

1. Background. This category of information shall identify the perceived dangers and incidents that the plan will address and a general description of how the response is organized.

a. Perceived Danger—Consistent with the design basis threat specified in § 73.1(a)(1), licensees shall identify and describe the perceived dangers, threats, and incidents against which the safeguards contingency plan is designed to protect.

b. Purpose of the Plan—Licensees shall describe the general goals, objectives and operational concepts underlying the implementation of the approved safeguards contingency plan.

c. Scope of the Plan—A delineation of the types of incidents covered by the plan.

(i) How the onsite response effort is organized and coordinated to effectively respond to a safeguards contingency event.

(ii) How the onsite response for safeguards contingency events has been integrated in other site emergency response procedures.

d. Definitions—A list of terms and their definitions used in describing operational and technical aspects of the approved safeguards contingency plan.

2. Generic Planning Base. Licensees shall define the criteria for initiation and

termination of responses to security events to include the specific decisions, actions, and supporting information needed to respond to each type of incident covered by the approved safeguards contingency plan. To achieve this result the generic planning base must:

a. Identify those events that will be used for signaling the beginning or aggravation of a safeguards contingency event according to how they are perceived initially by licensee's personnel. Licensees shall ensure detection of unauthorized activities and shall respond to all alarms or other indications signaling a security event, such as penetration of a protected area, vital area, or unauthorized barrier penetration (vehicle or personnel); tampering, bomb threats, or other threat warnings—either verbal, such as telephoned threats, or implied, such as escalating civil disturbances.

b. Define the specific objective to be accomplished relative to each identified safeguards contingency event. The objective may be to obtain a level of awareness about the nature and severity of the safeguards contingency to prepare for further responses; to establish a level of response preparedness; or to successfully nullify or reduce any adverse safeguards consequences arising from the contingency.

c. Identify the data, criteria, procedures, mechanisms and logistical support necessary to achieve the objectives identified.

3. Licensee Planning Base. This category of information shall include factors affecting safeguards contingency planning that are specific for each facility. To the extent that the topics are treated in adequate detail in the licensee's approved physical security plan, they may be incorporated by reference in the Safeguards Contingency Plan. The following topics must be addressed:

a. Organizational Structure. The safeguards contingency plan must describe the organization's chain of command and delegation of authority during safeguards contingency events, to include a general description of how command and control functions will be coordinated and maintained.

b. Physical Layout. The safeguards contingency plan must include a site map depicting the physical structures located on the site, including onsite independent spent fuel storage installations, and a description of the structures depicted on the map. Plans must also include a description and map of the site in relation to nearby towns, transportation routes (*e.g.*, rail, water, and roads), pipelines, airports, hazardous material facilities, and pertinent environmental features that may have an effect upon coordination of response activities. Descriptions and maps must indicate main and alternate entry routes for law enforcement or other offsite response and support agencies and the location for marshaling and coordinating response activities.

c. Safeguards Systems. The safeguards contingency plan must include a description of the physical security systems that support and influence how the licensee will respond to an event in accordance with the design basis threat described in § 73.1(a). The licensee's description shall begin with onsite physical protection measures implemented at the outermost facility perimeter, and must move inward through those measures implemented to protect target set equipment.

(i) Physical security systems and security systems hardware to be discussed include security systems and measures that provide defense in depth, such as physical barriers, alarm systems, locks, area access, armaments, surveillance, and communications systems.

(ii) The specific structure of the security response organization to include the total number of armed responders and armed security officers documented in the approved security plans as a component of the protective strategy and a general description of response capabilities shall also be included in the safeguards contingency plan.

(iii) Licensees shall ensure that individuals assigned duties and responsibilities to implement the safeguards contingency plan are trained and qualified in those duties according to the Commission approved security plans, training and qualification plans, and the performance evaluation program.

(iv) Armed responders shall be available to respond from designated areas inside the protected area at all times and may not be assigned any other duties or responsibilities that could interfere with assigned armed response team duties and responsibilities.

(v) Licensees shall develop, implement, and maintain a written protective strategy to be documented in procedures that describe in detail the physical protection measures, security systems and deployment of the armed response team relative to site specific conditions, to include but not be limited to, facility layout, and the location of target set equipment and elements. The protective strategy should support the general goals, operational concepts, and performance objectives identified in the licensee's safeguards contingency plan. The protective strategy shall:

(1) Be designed to meet the performance objectives of § 73.55(a) through (k).

(2) Identify predetermined actions, areas of responsibility and timelines for the deployment of armed personnel.

(3) Contain measures that limit the exposure of security personnel to possible attack, including incorporation of bullet resisting protected positions.

(4) Contain a description of the physical security systems and measures that provide defense in depth such as physical barriers, alarm systems, locks, area access, armaments, surveillance, and communications systems.

(5) Describe the specific structure and responsibilities of the armed response organization to include:

The authorized minimum number of armed responders, available at all times inside the protected area.

The authorized minimum number of armed security officers, available onsite at all times.

The total number of armed responders and armed security officers documented in the approved security plans as a component of the protective strategy.

(6) Provide a command and control structure, to include response by off-site law enforcement agencies, which ensures that decisions and actions are coordinated and communicated in a timely manner to facilitate response.

d. Law Enforcement Assistance. Provide a listing of available law enforcement agencies and a general description of their response capabilities and their criteria for response and a discussion of working agreements or arrangements for communicating with these agencies.

e. Policy Constraints and Assumptions. The safeguards contingency plan shall contain a discussion of State laws, local ordinances, and company policies and practices that govern licensee response to incidents and must include, but is not limited to, the following.

(i) Use of deadly force.

(ii) Recall of off-duty employees.

(iii) Site jurisdictional boundaries.

(iv) Use of enhanced weapons, if applicable.

f. Administrative and Logistical Considerations. Descriptions of licensee practices which influence how the security organization responds to a safeguards contingency event to include, but not limited to, a description of the procedures that will be used for ensuring that equipment needed to facilitate response will be readily accessible, in good working order, and in sufficient supply.

4. Responsibility Matrix. This category of information consists of the detailed identification of responsibilities and specific actions to be taken by licensee organizations and/or personnel in response to safeguards contingency events.

a. Licensees shall develop site procedures that consist of matrixes detailing the organization and/or personnel responsible for decisions and actions associated with specific responses to safeguards contingency events. The responsibility matrix and procedures shall be referenced in the licensee's safeguards contingency plan.

b. Responsibility matrix procedures shall be based on the events outlined in the licensee's Generic Planning Base and must include the following information:

(i) The definition of the specific objective to be accomplished relative to each identified safeguards contingency event. The objective may be to obtain a level of awareness about the nature and severity of the safeguards contingency to prepare for further responses, to establish a level of response preparedness, or to successfully nullify or reduce any adverse safeguards consequences arising from the contingency.

(ii) A tabulation for each identified initiating event and each response entity which depicts the assignment of responsibilities for decisions and actions to be taken in response to the initiating event.

(iii) An overall description of response actions and interrelationships specifically associated with each responsible entity must be included.

c. Responsibilities shall be assigned in a manner that precludes conflict of duties and responsibilities that would prevent the execution of the safeguards contingency plan and emergency response plans.

d. Licensees shall ensure that predetermined actions can be completed under the postulated conditions.

5. Implementing Procedures.

(i) Licensees shall establish and maintain written implementing procedures that provide specific guidance and operating details that identify the actions to be taken and decisions to be made by each member of the security organization who is assigned duties and responsibilities required for the effective implementation of the security plans and the site protective strategy.

(ii) Licensees shall ensure that implementing procedures accurately reflect the information contained in the Responsibility Matrix required by this appendix, the security plans, and other site plans.

(iii) Implementing procedures need not be submitted to the Commission for approval but are subject to inspection.

C. Records and Reviews

1. Licensees shall review the safeguards contingency plan in accordance with the requirements of § 73.55(n).

2. The safeguards contingency plan audit must include a review of applicable elements of the Physical Security Plan, Training and Qualification Plan, implementing procedures and practices, the site protective strategy, and response agreements made by local, State, and Federal law enforcement authorities.

3. Licensees shall retain all reports, records, or other documentation required by this appendix in accordance with the requirements of § 73.55.

Dated at Rockville, Maryland, this 13th day of March 2009.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

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Federal Register

Friday,
March 27, 2009

Part IV

The President

Proclamation 8353—Greek Independence Day: A National Day of Celebration of Greek and American Democracy, 2009

Federal Register
Vol. 74, No. 58
Friday, March 27, 2009

Presidential Documents

Title 3—

The President

Proclamation 8353 of March 24, 2009

Greek Independence Day: A National Day of Celebration of Greek and American Democracy, 2009

By the President of the United States of America

A Proclamation

The American people join Hellenes today in commemorating the 188th anniversary of Greece's independence. As we celebrate the establishment of the Hellenic Republic, we honor the historic contributions of Greeks and Greek-Americans.

Americans celebrated the cause of Greek independence during the new nation's earliest years. In 1824, summarizing support for the Greek struggle among the American people, then-Representative Henry Clay declared, ''That it is felt with the deepest intensity, expressed in almost every possible form, and that it increases with every new day and passing hour.'' His words are echoed today as Americans celebrate the anniversary of this struggle for independence.

The relationship between Greece and the United States owes much to the vision of democracy and liberty forged in Greece. In constructing a modern democratic framework, our Nation's founders drew upon the immutable principles of the ancient Greeks. All who cherish the ideal of democratic governance are beneficiaries of the Greek legacy.

From the literary classics taught in our children's classrooms to the gleaming monuments of our Nation's capital, Greek cultural traditions have also found a home in the United States. In classrooms across the country, many of our students still immerse themselves in the epics of Homer, the dramas of Sophocles, and the philosophical innovations of Plato and Aristotle. Among the Greek-influenced structures in Washington, D.C., our Nation's Capitol Building draws upon the architectural legacy of the ancient Greeks.

In recent history, Greece and the United States have stood together to meet the challenges of our times. Greeks and Americans fought for common causes over the course of the 20th century and continue to collaborate in this century, including through membership in the North Atlantic Treaty Organization.

The strength of the bond between Greece and the United States is exemplified by the Greek-American community, which enriches our Nation with its cultural heritage and helps maintain the living relationship between our countries.

On the anniversary of Greece's independence, we celebrate this friendship and look forward to realizing our common goals and aspirations.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim March 25, 2009, as ''Greek Independence Day: A National Day of Celebration of Greek and American Democracy.'' I call upon the people of the United States to observe this day with appropriate ceremonies and activities.

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

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