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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0395; Directorate Identifier 2009–CE–023–AD; Amendment 39–15895; AD 2009–09–09]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company (Type Certificate Previously Held by Columbia Aircraft Manufacturing (Previously The Lancair Company)) Models LC40–550FG, LC41–550FG, and LC42–550FG Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Cessna Aircraft Company (Type Certificate previously held by Columbia Aircraft Manufacturing (previously The Lancair Company)) Models LC40–550FG, LC41–550FG, and LC42–550FG airplanes. This AD requires you to repetitively inspect the rudder hinges and the rudder hinge brackets for damage, i.e., cracking, deformation, and discoloration. If damage is found during any inspection, this AD also requires you to replace the damaged rudder hinge and/or rudder hinge bracket. This AD results from reports that cracked lower rudder hinge brackets were found on two of the affected airplanes. We are issuing this AD to detect and correct damage in the rudder hinges and the rudder hinge brackets, which could result in failure of the rudder. This failure could lead to loss of control.

DATES: This AD becomes effective on May 11, 2009.

On May 11, 2009, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

We must receive any comments on this AD by June 29, 2009.

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

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

To get the service information identified in this AD, contact Cessna Aircraft Company, Product Support, P.O. Box 7706; Wichita, Kansas 67277; *telephone:* (316) 517–5800; *fax:* (316) 942–9006; *Internet: http://www.cessna.com.*

To view the comments to this AD, go to *http://www.regulations.gov.* The docket number is FAA–2009–0395; Directorate Identifier 2009–CE–023–AD.

FOR FURTHER INFORMATION CONTACT: Gary Park, Aerospace Engineer, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Wichita, Kansas 67209; *telephone:* (316) 946–4123; *fax:* (316) 946–4107; *e-mail: gary.park@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We have received reports that a cracked lower rudder hinge bracket was found on two Cessna Aircraft Company Model LC41–550FG airplanes.

One of the airplanes had 106 hours time-in-service (TIS) and the rudder hinge was fully fractured. The other airplane had 225 hours TIS and the rudder hinge was partially fractured.

The cracks occurred because of corrosion of the anodized 2024 aluminum brackets. By design, the bearings are pressed into hinge elements and then staked on either side. In the staking process, the anodized protection is lost.

Investigation is ongoing to determine to the best approach to take to incorporate a modification or a design change to prevent the rudder hinges and the rudder hinge brackets from becoming damaged, i.e., cracked, deformed, and discolored.

This condition, if not corrected, could result in failure of the rudder. This failure could lead to loss of control.

Relevant Service Information

We reviewed Cessna Aircraft Company Single Engine Service Bulletin SB09–27–01, dated April 13, 2009. The service information describes procedures for repetitively inspecting the rudder hinges and the rudder hinge brackets for damage, i.e., cracking, deformation, and discoloration. The service information also describes procedures for replacing any damaged rudder hinge and/or rudder hinge bracket.

FAA's Determination and Requirements of This AD

We are issuing this AD because we evaluated all the information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design. This AD requires repetitively inspecting the rudder hinges and the rudder hinge brackets for damage. If damage is found during any inspection, this AD also requires replacing the damaged rudder hinge and/or rudder hinge bracket.

Cessna Aircraft Company is reviewing the information related to the occurrences referenced in this AD and may develop a modification that, when incorporated, would eliminate the need for the repetitive inspections required by this AD. The FAA will review any modification that is developed, determine whether it would eliminate the need for the requirements of this action, and then determine whether additional AD action is necessary.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because rudder failure could lead to loss of control. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and an opportunity for public comment. We invite you to send any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number ''FAA–2009–0395; Directorate Identifier 2009–CE–023–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the AD in light of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–09–09 Cessna Aircraft Company (Type Certificate previously held by Columbia Aircraft Manufacturing (previously The Lancair Company)): Amendment 39–15895; Docket No. FAA–2009–0395; Directorate Identifier 2009–CE–023–AD.

Effective Date

(a) This AD becomes effective on May 11, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the following airplane models and serial numbers that are certificated in any category:

Model	Serial Nos.
LC40–550FG	40001 through 40079.
LC41–550FG	41001 through 41800, 411001 and subsequent.
LC42–550FG	42001 through 42569, 421001 and subsequent.

Unsafe Condition

(d) This AD is the result of reports that cracked lower rudder hinge brackets were found on two of the affected airplanes. We are issuing this AD to detect and correct damage, i.e., cracking, deformation, and discoloration, in the rudder hinges and the rudder hinge brackets, which could result in failure of the rudder. This failure could lead to loss of control.

Compliance

(e) To address this problem, you must do the following per Cessna Aircraft Company Single Engine Service Bulletin SB09–27–01, dated April 13, 2009, unless already done:

Condition	Initial inspection	Repetitive inspection
(1) For airplanes with 25 hours time-in-service (TIS) or more as of May 11, 2009 (the effective date of this AD):	With the rudder removed and using 10X visual magnification, inspect all three rudder hinges and rudder hinge brackets for damage, i.e., cracking, deformation, and discoloration, at whichever of the following occurs first: (i) Within the next 10 hours TIS after May 11, 2009 (the effective date of this AD); or (ii) Within the next 30 days after May 11, 2009 (the effective date of this AD).	Thereafter inspect as follows: (A) Every 25 hours TIS or 3 months, whichever occurs first, without removing the rudder, visually inspect all three rudder hinges and rudder hinge brackets for damage; and (B) Every 50 hours TIS or 6 months, whichever occurs first, with the rudder removed and using 10X visual magnification, inspect all three rudder hinges and rudder hinge brackets for damage.

Condition	Initial inspection	Repetitive inspection
(2) For airplanes with less than 25 hours TIS as of May 11, 2009 (the effective date of this AD):	Without removing the rudder, visually inspect all three rudder hinges and rudder hinge brackets for damage, at whichever of the following occurs later: (i) Upon accumulating 25 hours TIS; or (ii) Within the next 10 hours TIS after May 11, 2009 (the effective date of this AD).	Thereafter inspect as follows: (A) Every 25 hours TIS or 3 months, whichever occurs first, without removing the rudder, visually inspect all three rudder hinges and rudder hinge brackets for damage. (B) Every 50 hours TIS or 6 months, whichever occurs first, with the rudder removed and using 10X visual magnification, inspect all three rudder hinges and rudder hinge brackets for damage.

(3) If damage is found on any of the rudder hinges and/or rudder hinge brackets during any inspection required in paragraphs (e)(1) or (e)(2), before further flight, replace the damaged rudder hinges and/or rudder hinge brackets with new parts and inspect following the Repetitive Inspection procedures specified in paragraphs (e)(1) or (e)(2) of this AD.

(4) If the repetitive inspections required in paragraphs (e)(1) and (e)(2) of this AD become due at the same time, credit for both inspections will be given by doing the rudder removal and 10X visual inspection.

(5) Use the form (Figure 1 of this AD) to report the results of the following inspections required in this AD to the FAA at the address specified in paragraph (f) of this AD:

(i) Initial inspections required in paragraphs (e)(1) and (e)(2) of this AD, report within 10 days after the inspection or within 10 days of May 11, 2009 (after the effective date of this AD), whichever occurs later.

(ii) Repetitive inspections required in paragraphs (e)(1) and (e)(2) of this AD ONLY if cracks are found, report within 10 days after the inspection.

(iii) The Office of Management and Budget (OMB) approved the information collection requirements contained in this regulation under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) and assigned OMB Control Number 2120–0056.

AD 2009–09–09 Inspection Report		
Airplane Model		
Airplane Serial Number		
Airplane Tach Hours at Time of Inspection		
Is Upper Rudder Bracket Damaged?	No	Yes, describe extent of damage
Is Middle Rudder Bracket Damaged?	No	Yes, describe extent of damage
Is the Lower Rudder Bracket Damaged? (Models LC40–550FG & LC42–550FG only)	No	Yes, describe extent of damage
Is Lower Rudder Hinge Damaged? (Model LC40–550FG)	No	Yes, describe extend of damage
Were any other discrepancies noticed during the inspection?		
Name:		
Telephone and/or e-mail address:		
Date:		
Send report to: Gary Park, Aerospace Engineer, ACE–118W, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Wichita, Kansas 67209; *fax:* (316) 946–4107; *e-mail: gary.park@faa.gov.* Figure 1		

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Wichita Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to *Attn:* Gary Park, Aerospace Engineer, ACE–118W, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Wichita, Kansas 67209; *telephone:* (316) 946–4123; *fax:* (316) 946–4107; *e-mail: gary.park@faa.gov.* Before using any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

Material Incorporated by Reference

(g) You must use Cessna Aircraft Company Single Engine Service Bulletin SB09–27–01, dated April 13, 2009, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Cessna Aircraft Company, Product Support, P.O. Box 7706; Wichita, Kansas 67277; *telephone:* (316) 517–5800; *fax:* (316) 942–9006; *Internet: http://www.cessna.com.*

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

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

Issued in Kansas City, Missouri, on April 23, 2009.

Scott A. Horn,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–9793 Filed 4–29–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0391; Directorate Identifier 2007–NM–271–AD; Amendment 39–15891; AD 2009–09–05]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A318–100 and A319–100 Series Airplanes; A320–111 Airplanes; A320–200 Series Airplanes; and A321–100 and A321–200 Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to certain Airbus Model A318–100 and A319–100 series airplanes; A320–111 airplanes; A320–200 series airplanes; and A321–100 and A321–200 series airplanes. That AD currently requires a one-time inspection of the horizontal hinge pin of the 103VU electrical panel in the avionics compartment to determine if the hinge pin can move out of the hinge, and related investigative and corrective actions if necessary. This new AD instead requires installing a hinge pin stopper on the internal door of the 103VU electrical panel. This AD results from a report indicating that electrical wire damage was found in the 103VU electrical panel due to contact between the hinge pin and the adjacent electrical wire harness. We are issuing this AD to prevent contact between the horizontal hinge pin and the adjacent electrical wire harness, which could result in damage to electrical wires, and consequent arcing and/or failure of associated systems.

DATES: This AD becomes effective June 4, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of June 4, 2009.

ADDRESSES: For service information identified in this AD, contact Airbus, Airworthiness Office—EAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; e-mail: *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 2006–03–10, amendment 39–14474 (71 FR 6665, February 9, 2006). The existing AD applies to certain Airbus Model A318–100 and A319–100 series airplanes; A320–111 airplanes; A320–200 series airplanes; and A321–100 and A321–200 series airplanes. That NPRM was published in the **Federal Register** on January 9, 2008 (73 FR 1558). That NPRM proposed to discontinue the existing requirements and instead require installing a hinge pin stopper on the internal door of the 103VU electrical panel. This AD results from a report indicating that electrical wire damage was found in the 103VU electrical panel due to contact between the hinge pin and the adjacent electrical wire harness.

Comments

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

Request for Additional Action

The Air Transport Association (ATA), on behalf of one of its members, Northwest Airlines (NWA), notes that the proposed modification prevents only outboard migration of the pins, and requests that the AD be changed to require a hinge pin stopper to be added to both ends of the hinge to completely contain the hinge pin and prevent inboard migration.

We do not agree with ATA's request. We are issuing this AD to address potential wire damage due to outboard migration of the hinge pin. There is no potential of wire damage due to inboard migration of the pin. However, if additional data show that inboard migration of the hinge pin causes an unsafe condition, we might consider further rulemaking. We have not changed the AD in this regard.

Request for Alternate Modification

The ATA, on behalf of NWA, requests that the AD be changed to allow the hinge stoppers to be installed using the existing hole in the lower angle fitting (part number D92510153000) adjacent to the end hinge mounting hole, instead of drilling a new hole through the hinge assembly. NWA states that this change would eliminate the need for any drilling during modification, and would more easily facilitate accomplishment within the line maintenance environment, providing greater scheduling flexibility.

We do not agree with ATA's request. Airbus Mandatory Service Bulletin A320–25–1535, dated April 27, 2007, specifies drilling a hole on the hinge. The commenter did not provide sufficient data to substantiate that using the existing hole would address the identified unsafe condition. To use a different method from the one specified in that service bulletin, operators may request approval of an alternative method of compliance (AMOC) according to paragraph (g) of the AD. We have not changed the AD in this regard.

Conclusion

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

Costs of Compliance

This AD affects about 658 Airbus Model A318–100 and A319–100 series airplanes; A320–111 airplanes; A320–200 series airplanes; and A321–100 and A321–200 series airplanes of U.S. registry. The new actions take about 1 work hour per airplane, at an average labor rate of $80 per work hour. Required parts cost about $20 per airplane. Based on these figures, the estimated cost of the new actions specified in this AD for U.S. operators is $65,800, or $100 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–14474 (71 FR 6665, February 9, 2006) and by adding the following new airworthiness directive (AD):

2009–09–05 Airbus: Amendment 39–15891. Docket No. FAA–2007–0391; Directorate Identifier 2007–NM–271–AD.

Effective Date

(a) This AD becomes effective June 4, 2009.

Affected ADs

(b) This AD supersedes AD 2006–03–10.

Applicability

(c) This AD applies to Airbus Model A318–111 and 112; A319–111, –112, –113, –114, –115, –131, –132, and –133; A320–111, –211, –212, –214, –231, –232, and –233; and A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes; certificated in any category; all manufactured serial numbers; except for those airplanes on which Airbus Modification 36115 has been done in production or Airbus Mandatory Service Bulletin A320–25–1535, dated April 27, 2007, has been done in service.

Unsafe Condition

(d) This AD results from a report indicating that electrical wire damage was found in the 103VU electrical panel due to contact between the hinge pin and the adjacent electrical wire harness. We are issuing this AD to prevent contact between the horizontal hinge pin and the adjacent electrical wire harness, which could result in damage to electrical wires, and consequent arcing and/or failure of associated systems.

Compliance

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

Installation

(f) Within 18 months after the effective date of this AD, install a hinge pin stopper on the internal door of the 103VU electrical panel in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A320–25–1535, dated April 27, 2007.

Alternative Methods of Compliance (AMOCs)

(g)(1) The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

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

Related Information

(h) European Aviation Safety Agency Airworthiness Directive 2007–0214, dated August 7, 2007, also addresses the subject of this AD.

Material Incorporated by Reference

(i) You must use Airbus Mandatory Service Bulletin A320–25–1535, dated April 27, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Airbus, Airworthiness Office—EAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; e-mail: *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

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

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

Issued in Renton, Washington, on April 15, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–9714 Filed 4–29–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 524

[Docket No. FDA–2009–N–0665]

Ophthalmic and Topical Dosage Form New Animal Drugs; Selamectin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Pfizer, Inc. The supplemental NADA revises the minimum age of treatment from 6 weeks to 8 weeks for kittens treated with a topical selamectin solution.

DATES: This rule is effective April 30, 2009.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8337, e-mail: *melanie.berson@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017–5755, filed a supplement to NADA 141–152 that provides for topical veterinary prescription use of REVOLUTION (selamectin) in dogs and cats. The supplemental NADA revises the minimum age of treatment from 6 weeks to 8 weeks for kittens. The supplemental NADA is approved as of April 6, 2009, and the regulations are amended in 21 CFR 524.2098 to reflect the approval.

Approval of these supplemental NADAs did not require review of additional safety or effectiveness data or information. Therefore, a freedom of information summary is not required.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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

List of Subjects in 21 CFR Part 524

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 524 is amended as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 524 continues to read as follows:

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

§ 524.2098 [Amended]

■ 2. In § 524.2098, in the last sentence in paragraph (d)(2), remove ''For dogs and cats 6 weeks of age and older'' and in its place add ''For dogs 6 weeks of age and older, and cats 8 weeks of age and older''.

Dated: April 23, 2009.

Steven D. Vaughn,

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

[FR Doc. E9–9901 Filed 4–29–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2009–0296]

Security Zone; Portland Rose Festival on Willamette River

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Portland Rose Festival Security Zone on the Willamette River from 1 p.m. on June 3, 2009, until 10 a.m. June 8, 2009. This action is necessary to ensure the safety and security of maritime traffic, including the public vessels present, on the Willamette River during the Portland Rose Festival. During the enforcement period, entry into the security zone detailed in 33 CFR 165.1312 is prohibited unless authorized by the Captain of the Port Portland or his designated representative.

DATES: The regulations in 33 CFR 165.1312 will be enforced from 1 p.m. on June 3, 2009, through 10 a.m. on June 8, 2009.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or e-mail MST1 Jaime Sayers, Waterways Management, U.S. Coast Guard Sector Portland; telephone 503–240–9319, e-mail *Jaime.A.Sayers@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the security zone for the Portland Rose Festival detailed in 33 CFR 165.1312 from 1 p.m. on June 3, 2009, until 10 a.m. on June 8, 2009.

Under the provisions of 33 CFR 165.1312, entry into the zone established by that section is prohibited unless authorized by the Captain of the Port Portland or his designated representative. Spectator vessels may transit outside the security zone but may not anchor, block, loiter in, or impede the transit of ship parade participants or official patrol vessels. The Coast Guard may be assisted by other Federal, State or local law enforcement agencies in enforcing this regulation.

This notice is issued under authority of 33 CFR 165.1312 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with notification of this enforcement period via Local Notice to Mariners and marine information broadcasts.

Dated: April 16, 2009.

F.G. Myer,

Captain, U.S. Coast Guard, Captain of the Port Portland.

[FR Doc. E9–9992 Filed 4–29–09; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA–HQ–OAR–2008–0009; FRL–8899–5]

RIN 2060–AO78

Protection of Stratospheric Ozone: The 2009 Critical Use Exemption From the Phaseout of Methyl Bromide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule authorizes uses of methyl bromide that qualify for the 2009 critical use exemption and the amount of methyl bromide that may be produced, imported, or supplied from existing pre-phaseout inventory for those uses in 2009. EPA is taking action under the authority of the Clean Air Act to reflect a consensus decision taken at the Nineteenth Meeting of by the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer.

DATES: This rule is effective on April 30, 2009.

ADDRESSES: EPA has established a docket for this action identified under EPA–HQ–OAR–2008–0009. All documents in the docket are listed on the *http://www.regulations.gov* site. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available only through *http://www.regulations.gov* or in hard copy. To obtain copies of materials in hard copy, please call the EPA Docket Center at (202) 564–1744 between the hours of 8:30 a.m.–4:30 p.m. E.S.T., Monday–Friday, excluding legal holidays, to schedule an appointment. The EPA

Docket Center's Public Reading Room address is EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jeremy Arling by telephone at (202) 343–9055, or by e-mail at *arling.jeremy@epa.gov* or by mail at U.S. Environmental Protection Agency, Stratospheric Protection Division, Stratospheric Program Implementation Branch (6205J), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. You may also visit the Ozone Depletion Web site of EPA's Stratospheric Protection Division at *http://www.epa.gov/ozone/strathome.html* for further information about EPA's Stratospheric Ozone Protection regulations, the science of ozone layer depletion, and related topics.

SUPPLEMENTARY INFORMATION: This final rule concerns Clean Air Act (CAA) restrictions on the consumption, production, and use of methyl bromide (a Class I, Group VI controlled substance) for critical uses during calendar year 2009. Under the Clean Air Act, methyl bromide consumption (consumption is defined under the CAA as production plus imports minus exports) and production was phased out on January 1, 2005, apart from allowable exemptions, such as the critical use exemption and the quarantine and preshipment exemption. With this action, EPA is authorizing the uses that will qualify for the 2009 critical use exemption as well as specific amounts of methyl bromide that may be produced, imported, or sold from pre-phaseout inventory for proposed critical uses in 2009.

Section 553(d) of the Administrative Procedure Act (APA), 5 U.S.C. Chapter 5, generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**. EPA is issuing this final rule under section 307(d)(1) of the Clean Air Act, which states: ''The provisions of section 553 through 557 * * * of Title 5 shall not, except as expressly provided in this section, apply to actions to which this subsection applies.'' Thus, section 553(d) of the APA does not apply to this rule. EPA is nevertheless acting consistently with the policies underlying APA section 553(d) in making this rule effective on April 30, 2009. APA section 553(d) provides an exception for any action that grants or recognizes an exception or relieves a restriction. This final rule grants an exemption from the phaseout of methyl bromide.

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I. General Information

Regulated Entities

Entities potentially regulated by this action are those associated with the production, import, export, sale, application, and use of methyl bromide covered by an approved critical use exemption. Potentially regulated categories and entities include producers, importers, and exporters of methyl bromide; applicators and distributors of methyl bromide; users of methyl bromide, *e.g.,* farmers of vegetable crops, fruits and nursery stock; owners of stored food commodities and structures such as grain mills and processors; and agricultural researchers.

This list is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility, company, business, or organization could be regulated by this action, you should carefully examine the regulations promulgated at 40 CFR part 82, subpart A. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding section.

II. What Is Methyl Bromide?

Methyl bromide is an odorless, colorless, toxic gas which is used as a broad-spectrum pesticide and is controlled under the CAA as a Class I ozone-depleting substance (ODS). Methyl bromide is used in the U.S. and throughout the world as a fumigant to control a variety of pests such as insects, weeds, rodents, pathogens, and nematodes. Information on methyl bromide can be found at *http://www.epa.gov/ozone/mbr* and *http://www.unep.org/ozone.*

Methyl bromide is also regulated by EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and other statutes and regulatory authority, as well as by States under their own statutes and regulatory authority. Under FIFRA, methyl bromide is a restricted use pesticide. Restricted use pesticides are subject to Federal and State requirements governing their sale, distribution, and use. Nothing in this final rule implementing the Clean Air Act is intended to derogate from provisions in any other Federal, State, or local laws or regulations governing actions including, but not limited to, the sale, distribution, transfer, and use of methyl bromide. Entities affected by this action must continue to comply with FIFRA and other pertinent statutory and regulatory requirements for pesticides when importing, exporting, acquiring, selling, distributing, transferring, or using methyl bromide for critical uses. The regulations in this final rule only implement the CAA restrictions on the production, consumption, and use of methyl bromide for critical uses exempted from the phaseout of methyl bromide.

III. What Is the Background to the Phaseout Regulations for Ozone Depleting Substances?

The regulatory requirements that limit production and consumption of ozone-depleting substances are in 40 CFR part 82, subpart A. The Montreal Protocol on

Substances that Deplete the Ozone Layer (Montreal Protocol) is the international agreement aimed at reducing and eliminating the production and consumption of stratospheric ozone-depleting substances. The U.S. was one of the original signatories to the 1987 Montreal Protocol and the U.S. ratified the Protocol on April 12, 1988. Congress then enacted, and President George H.W. Bush signed into law, the Clean Air Act Amendments of 1990 (CAAA of 1990) which included Title VI on Stratospheric Ozone Protection, codified as 42 U.S.C. Chapter 85, Subchapter VI, to ensure that the United States could satisfy its obligations under the Protocol. EPA issued regulations to implement this legislation and has amended them as needed.

Methyl bromide was added to the Protocol as an ODS in 1992 through the Copenhagen Amendment to the Protocol. The Parties to the Montreal Protocol agreed that each industrialized country's level of methyl bromide production and consumption in 1991 should be the baseline for establishing a freeze in the level of methyl bromide production and consumption for industrialized countries. EPA published a final rule in the **Federal Register** on December 10, 1993 (58 FR 65018), listing methyl bromide as a Class I, Group VI controlled substance, freezing U.S. production and consumption at this 1991 baseline level of 25,528,270 kilograms, and setting the percentage of baseline allowances for methyl bromide granted to companies in each control period (each calendar year) until 2001, when the complete phaseout would occur. This phaseout date was established in response to a petition filed in 1991 under Sections 602(c)(3) and 606(b) of the CAAA of 1990, requesting that EPA list methyl bromide as a Class I substance and phase out its production and consumption. This date was consistent with Section 602(d) of the CAAA of 1990, which for newly listed Class I ozone depleting substances provides that ''no extension [of the phaseout schedule in section 604] under this subsection may extend the date for termination of production of any class I substance to a date more than 7 years after January 1 of the year after the year in which the substance is added to the list of class I substances.''

At the Seventh Meeting of the Parties (MOP) in 1995, the Parties made adjustments to the methyl bromide control measures and agreed to reduction steps and a 2010 phaseout date for industrialized countries with exemptions permitted for critical uses. At that time, the U.S. continued to have a 2001 phaseout date in accordance with Section 602(d) of the CAAA of 1990. At the Ninth MOP in 1997, the Parties agreed to further adjustments to the phaseout schedule for methyl bromide in industrialized countries, with reduction steps leading to a 2005 phaseout.

IV. What Is the Legal Authority for Exempting the Production and Import of Methyl Bromide for Critical Uses Authorized by the Parties to the Montreal Protocol?

In October 1998, the U.S. Congress amended the CAA to prohibit the termination of production of methyl bromide prior to January 1, 2005, to require EPA to bring the U.S. phaseout of methyl bromide in line with the schedule specified under the Protocol, and to authorize EPA to provide certain exemptions. These amendments were codified in Section 604 of the CAA, 42 U.S.C. 7671c. The amendment that specifically addresses the critical use exemption appears at Section 604(d)(6), 42 U.S.C. 7671c(d)(6). EPA revised the phaseout schedule for methyl bromide production and consumption in a direct final rulemaking on November 28, 2000 (65 FR 70795), which allowed for the phased reduction in methyl bromide consumption specified under the Protocol and extended the phaseout to 2005. EPA again amended the regulations to allow for an exemption for quarantine and preshipment (QPS) purposes on July 19, 2001 (66 FR 37751), with an interim final rule and with a final rule on January 2, 2003 (68 FR 238).

On December 23, 2004 (69 FR 76982), EPA published a final rule that established the framework for the critical use exemption, listed approved critical uses for 2005, and specified the amount of methyl bromide that could be supplied in 2005 from stocks and new production or import to meet the needs of approved critical uses. Since then, EPA has published rules applying the critical use exemption (CUE) framework to subsequent control periods. Under authority of section 604(d)(6) of the CAA, this action lists the uses that will qualify as approved critical uses in 2009 and the amount of methyl bromide that may be produced, imported, or supplied from inventory to satisfy those uses.

This action reflects Decision XIX/9, taken at the Nineteenth Meeting of the Parties in September 2007. In accordance with Article 2H(5), the Parties have issued several Decisions pertaining to the critical use exemption. These include Decisions IX/6 and Ex. I/4, which set forth criteria for review of proposed critical uses. The status of Decisions is addressed in *NRDC* v. *EPA,* (464 F.3d 1, DC Cir. 2006) and in EPA's ''Supplemental Brief for the Respondent,'' filed in *NRDC* v. *EPA* and available in the docket for this action. In this final rule, EPA is honoring commitments made by the United States in the Montreal Protocol context.

V. What Is the Critical Use Exemption Process?

A. Background of the Process

The critical use exemption permits the production and import of methyl bromide for uses that do not have technically and economically feasible alternatives. On May 8, 2003, the Agency published its first notice in the **Federal Register** (68 FR 24737) announcing the availability of the application for a critical use exemption and the deadline for submission of the requisite data. EPA informed applicants that they may apply as individuals or as part of a group of users (a ''consortium'') who face the same limiting critical conditions (*i.e.,* specific conditions that establish a critical need for methyl bromide). EPA has repeated this process annually since then.

The criteria for the exemption initially appeared in Decision IX/6. In that Decision, the Parties agreed that ''a use of methyl bromide should qualify as 'critical' only if the nominating Party determines that: (i) The specific use is critical because the lack of availability of methyl bromide for that use would result in a significant market disruption; and (ii) there are no technically and economically feasible alternatives or substitutes available to the user that are acceptable from the standpoint of environment and public health and are suitable to the crops and circumstances of the nomination.'' These criteria are reflected in EPA's definition of ''critical use'' at 40 CFR 82.3.

In response to the annual requests for critical use exemption applications published in the **Federal Register**, applicants provide data on the technical and economic feasibility of using alternatives to methyl bromide. Applicants also submit data on their use of methyl bromide, on research programs into the use of alternatives to methyl bromide, and on efforts to minimize use and emissions of methyl bromide.

EPA's Office of Pesticide Programs reviews the data submitted by applicants, as well as data from governmental and academic sources, to establish whether there are technically and economically feasible alternatives available for a particular use of methyl bromide and whether there would be a

significant market disruption if no exemption were available. In addition, EPA reviews other parameters of the exemption applications such as dosage and emissions minimization techniques and applicants' research or transition plans. This assessment process culminates in the development of the critical use nomination (CUN). The U.S. Department of State submits the CUN annually to the United Nations Environment Programme (UNEP) Ozone Secretariat. The Methyl Bromide Technical Options Committee (MBTOC) and the Technology and Economic Assessment Panel (TEAP), which are independent advisory bodies to Parties to the Montreal Protocol, subsequently review the CUNs of the various countries and make recommendations to the Parties on the nominations. The Parties then take a Decision to authorize a critical use exemption for a particular country. The Decision also identifies how much methyl bromide may be supplied for the exempted critical uses. As required in Section 604(d)(6) of the Clean Air Act, for each exemption period, EPA consults with the United States Department of Agriculture and other departments and institutions of the Federal government that have regulatory authority related to methyl bromide, and provides an opportunity for public comment on the amounts of methyl bromide that the Agency has determined to be necessary for critical uses and the uses that the Agency has determined meet the criteria of the critical use exemption.

More on the domestic review process and methodology employed by the Office of Pesticide Programs is available in a detailed memorandum titled ''Development of 2003 Nomination for a Critical Use Exemption for Methyl Bromide for the United States of America,'' contained in the docket for this rulemaking. While the particulars of the data continue to evolve and administrative matters are further streamlined, the technical review itself remains rigorous with careful consideration of new technical and economic conditions.

On December 22, 2006, the U.S. Government (USG) submitted the fifth CUN to the Ozone Secretariat. This fifth nomination contained the request for 2009 critical uses. In February 2007, MBTOC sent questions to the USG concerning technical and economic issues in the 2009 nomination. The USG transmitted preliminary responses to MBTOC on March 13, 2007. The USG received a second round of questions from MBTOC and submitted responses to those questions in May, 2007. These documents, together with reports by the advisory bodies noted above, are in the public docket for this rulemaking. The determination in this final rule reflects the analysis contained in those documents.

B. How Does This Final Rule Relate to Previous CUE Rules?

The December 23, 2004, Framework Rule (69 FR 76982) established the operational framework for the CUE program in the U.S., including definitions, prohibitions, trading provisions, and recordkeeping and reporting obligations. The preamble to the Framework Rule included EPA's determinations on key issues for the CUE program.

Since then, EPA has annually promulgated regulations to exempt from the phaseout of methyl bromide specific quantities of production and import for each control period and to indicate which uses meet the criteria for the exemption program for that year. See 71 FR 5985 (2006 control period), 71 FR 75386 (2007 control period), and 72 FR 74118 (2008 control period).

Today's action authorizes specific critical uses for 2009 and the amounts of critical use allowances (CUAs) and critical stock allowances (CSAs) allocated for those uses. These are the uses included in the USG's fifth CUN and authorized by the Parties in Decision XIX/9. EPA is not modifying the Framework Rule or the approach to determining the level of available stocks finalized in the 2008 CUE rule published on December 28, 2007.

C. Critical Uses

In Decision XIX/9, taken in September 2007, the Parties to the Protocol agreed ''to permit, for the agreed critical use categories for 2009, set forth in table C of the annex to the present decision for each Party, subject to the conditions set forth in the present decision and decision Ex.I/4 to the extent that those conditions are applicable, the levels of production and consumption for 2009 set forth in table D of the annex to the present decision which are necessary to satisfy critical uses. * * *''

Table C of the annex to Decision XIX/9 lists the following uses: Commodities, NPMA food processing structures (cocoa beans removed),[1] Mills and processors, Dried cured pork, Cucurbits, Eggplant—field, Forest nursery seedlings, Nursery stock—fruit, nut, flower, Orchard replant, Ornamentals, Peppers—field, Strawberry—field, Strawberry runners, Tomatoes—field, Sweet potato slips. The agreed critical use levels for 2009 total 4,261,974 kilograms (kg), which is equivalent to 16.7% of the U.S. 1991 methyl bromide consumption baseline of 25,528,270 kg. However, the maximum amount of allowable new production and import as set forth in Table D of Decision XIX/9 is 3,961,974 kg (15.5% of baseline), minus available stocks. For the reasons described in Section V.D of this preamble, EPA is allowing limited amounts of new production or import of methyl bromide for critical uses for 2009 up to the amount of 2,275,715 kg (8.9% of baseline), with 1,919,193 kg (7.5% of baseline) coming from pre-phaseout inventory (*i.e.,* stocks).

This final rule modifies 40 CFR part 82, subpart A, Appendix L to reflect the agreed critical use categories identified in Decision XIX/9 for the 2009 control period. The Agency is amending the table of critical uses based, in part, on the technical analysis contained in the 2009 U.S. nomination that assesses data submitted by applicants to the CUE program as well as public and proprietary data on the use of methyl bromide and its alternatives. EPA sought comment on the technical analysis (which is provided in the docket) and as well as information regarding changes to the registration or use of alternatives that may have transpired after the 2009 U.S. nomination was written. The Agency stated that such information has the potential to alter the technical or economic feasibility of an alternative and could thus cause EPA to modify the analysis that underpins EPA's determination as to which uses and what amounts of methyl bromide qualify for the critical use exemption. Based on the information described above, EPA is determining that the uses in Table I: Approved Critical Uses, with the limiting critical conditions specified, qualify to obtain and use critical use methyl bromide in 2009.

[1] NPMA, National Pest Management Association, includes both food processing structures and processed foods. This year's exemption does not include cocoa beans.

TABLE I—APPROVED CRITICAL USES

Approved critical uses Column A	Approved critical user and location of use Column B	Limiting critical conditions that exist, or that the approved critical user reasonably expects could arise without methyl bromide fumigation: Column C
PRE-PLANT USES		
Cucurbits	(a) Growers in Delaware, Maryland, and Michigan.	Moderate to severe soilborne disease infestation. A need for methyl bromide for research purposes.
	(b) Growers in Georgia and Southeastern U.S. limited to growing locations in Alabama, Arkansas, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe soilborne disease infestation. Moderate to severe root knot nematode infestation. A need for methyl bromide for research purposes.
Eggplant	(a) Florida growers	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe soilborne disease infestation. Restrictions on alternatives due to karst topographical features and soils not supporting seepage irrigation. A need for methyl bromide for research purposes.
	(b) Georgia growers	Moderate to severe yellow or purple nutsedge infestation Moderate to severe nematode infestation. Moderate to severe pythium collar, crown and root rot. Moderate to severe southern blight infestation. Restrictions on alternatives due to karst topographical features. A need for methyl bromide for research purposes.
	(c) Michigan growers	Moderate to severe soilborne disease infestation. A need for methyl bromide for research purposes.
Forest Nursery Seedlings.	(a) Growers in Alabama, Arkansas, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia.	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe soilborne disease infestation. Moderate to severe nematode infestation.
	(b) International Paper and its subsidiaries limited to growing locations in Alabama, Arkansas, Georgia, South Carolina, and Texas.	Moderate to severe yellow or purple nutsedge infestation Moderate to severe soilborne disease infestation.
	(c) Government-owned seedling nurseries in Illinois, Indiana, Kentucky, Maryland, Missouri, New Jersey, Ohio, Pennsylvania, West Virginia, and Wisconsin.	Moderate to severe weed infestation including purple and yellow nutsedge infestation. Moderate to severe Canada thistle infestation. Moderate to severe nematode infestation. Moderate to severe soilborne disease infestation.
	(d) Weyerhaeuser Company and its subsidiaries limited to growing locations in Alabama, Arkansas, North Carolina, and South Carolina.	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe soilborne disease infestation. Moderate to severe nematode or worm infestation.
	(e) Weyerhaeuser Company and its subsidiaries limited to growing locations in Oregon and Washington.	Moderate to severe yellow nutsedge infestation. Moderate to severe soilborne disease infestation.
	(f) Michigan growers	Moderate to severe soilborne disease infestation. Moderate to severe Canada thistle infestation. Moderate to severe nutsedge infestation. Moderate to severe nematode infestation.
Orchard Nursery Seedlings.	(a) Members of the Western Raspberry Nursery Consortium limited to growing locations in Washington, and members of the California Association of Nursery and Garden Centers representing Deciduous Tree Fruit Growers.	Moderate to severe nematode infestation. Medium to heavy clay soils. Local township limits prohibiting 1,3-dichloropropene. A need for methyl bromide for research purposes.
	(b) California rose nurseries	Moderate to severe nematode infestation. Local township limits prohibiting 1,3-dichloropropene. A need for methyl bromide for research purposes.
Orchard Replant	(a) California stone fruit, table and raisin grape, wine grape, walnut, and almond growers.	Moderate to severe nematode infestation. Moderate to severe soilborne disease infestation. Replanted orchard soils to prevent orchard replant disease. Medium to heavy soils. Local township limits prohibiting 1,3-dichloropropene.
Ornamentals	(a) California growers	Moderate to severe soilborne disease infestation. Moderate to severe nematode infestation. Local township limits prohibiting 1,3-dichloropropene. A need for methyl bromide for research purposes.
	(b) Florida growers	Moderate to severe weed infestation. Moderate to severe soilborne disease infestation. Moderate to severe nematode infestation. Restrictions on alternatives due to karst topographical features and soils not supporting seepage irrigation.

TABLE I—APPROVED CRITICAL USES—Continued

Approved critical uses Column A	Approved critical user and location of use Column B	Limiting critical conditions that exist, or that the approved critical user reasonably expects could arise without methyl bromide fumigation: Column C
		A need for methyl bromide for research purposes.
	(c) Michigan herbaceous perennial growers ...	Moderate to severe nematode infestation. Moderate to severe soilborne disease infestation. Moderate to severe yellow nutsedge and other weed infestation.
Peppers	(a) Alabama, Arkansas, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia growers.	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe nematode infestation. Moderate to severe pythium root, collar, crown and root rots. A need for methyl bromide for research purposes.
	(b) Florida growers	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe soilborne disease infestation. Moderate to severe nematode infestation. Restrictions on alternatives due to karst topographical features and soils not supporting seepage irrigation. A need for methyl bromide for research purposes.
	(c) Georgia growers	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe nematode infestation, or moderate to severe pythium root and collar rots. Moderate to severe southern blight infestation, crown or root rot. Restrictions on alternatives due to karst topographical features. A need for methyl bromide for research purposes
	(d) Michigan growers	Moderate to severe soilborne disease infestation. A need for methyl bromide for research purposes.
Strawberry Fruit	(a) California growers	Moderate to severe black root rot or crown rot. Moderate to severe yellow or purple nutsedge infestation. Moderate to severe nematode infestation. Local township limits prohibiting 1,3-dichloropropene. Time to transition to an alternative. A need for methyl bromide for research purposes.
	(b) Florida growers	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe nematode infestation. Moderate to severe soilborne disease infestation. Carolina geranium or cut-leaf evening primrose infestation. Restrictions on alternatives due to karst topographical features and soils not supporting seepage irrigation. A need for methyl bromide for research purposes.
	(c) Alabama, Arkansas, Georgia, Illinois, Kentucky, Louisiana, Maryland, Mississippi, Missouri, New Jersey, North Carolina, Ohio, South Carolina, Tennessee, and Virginia growers.	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe nematode infestation. Moderate to severe black root and crown rot. A need for methyl bromide for research purposes
Strawberry Nurseries	(a) California growers	Moderate to severe soilborne disease infestation. Moderate to severe yellow or purple nutsedge infestation. Moderate to severe nematode infestation. A need for methyl bromide for research purposes.
	(b) North Carolina and Tennessee growers	Moderate to severe black root rot. Moderate to severe root-knot nematode infestation. Moderate to severe yellow and purple nutsedge infestation. A need for methyl bromide for research purposes.
Sweet Potato Slips	(a) California growers	Local township limits prohibiting 1,3-dichloropropene.
Tomatoes	(a) Michigan growers	Moderate to severe soilborne disease infestation. Moderate to severe fungal pathogen infestation. A need for methyl bromide for research purposes.
	(b) Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia growers.	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe soilborne disease infestation. Moderate to severe nematode infestation. Restrictions on alternatives due to karst topographical features and, in Florida, soils not supporting seepage irrigation. A need for methyl bromide for research purposes.
	(c) Maryland growers	Moderate to severe fungal pathogen infestation.
POST-HARVEST USES		
Food Processing	(a) Rice millers in the U.S. who are members of the USA Rice Millers Association.	Moderate to severe beetle, weevil, or moth infestation. Presence of sensitive electronic equipment subject to corrosion. Time to transition to an alternative.
	(b) Pet food manufacturing facilities in the U.S. who are members of the Pet Food Institute.	Moderate to severe beetle, moth, or cockroach infestation. Presence of sensitive electronic equipment subject to corrosion. Time to transition to an alternative.
	(c) Bakeries in the U.S	Presence of sensitive electronic equipment subject to corrosion.

TABLE I—APPROVED CRITICAL USES—Continued

Approved critical uses Column A	Approved critical user and location of use Column B	Limiting critical conditions that exist, or that the approved critical user reasonably expects could arise without methyl bromide fumigation: Column C
	(d) Members of the North American Millers' Association in the U.S.	Time to transition to an alternative. Moderate to severe beetle infestation. Presence of sensitive electronic equipment subject to corrosion. Time to transition to an alternative.
	(e) Members of the National Pest Management Association treating processed food, cheese, herbs and spices, and spaces and equipment in associated processing and storage facilities.	Moderate to severe beetle or moth infestation. Presence of sensitive electronic equipment subject to corrosion. Time to transition to an alternative.
Commodities	(a) California entities storing walnuts, beans, dried plums, figs, raisins, and dates (in Riverside county only) in California.	Rapid fumigation required to meet a critical market window, such as during the holiday season. Export to countries which do not allow the use of sulfuryl fluoride. A need for methyl bromide for research purposes.
Dry Cured Pork Products.	(a) Members of the National Country Ham Association and the Association of Meat Processors, Nahunta Pork Center (North Carolina), and Gwaltney and Smithfield Inc.	Red legged ham beetle infestation. Cheese/ham skipper infestation. Dermested beetle infestation. Ham mite infestation.

EPA proposed revising the description of the National Pest Management Association (NPMA) to remove the term cocoa beans in storage and associated spaces. NPMA has transitioned to sulfuryl fluoride for cocoa bean fumigation and such fumigations were not included in the CUN or approved by the Parties. NPMA requested that instead of the proposed description, EPA describe their members as ''Members of the National Pest Management Association treating processed food, cheese, dried milk, herbs and spices, and spaces and equipment in associated processing and storage facilities.'' The use of methyl bromide for dried milk was not included in the CUN or approved by the Parties. Therefore, EPA agrees with NPMA's revised description except for the inclusion of dried milk.

EPA proposed adding ''restrictions on alternatives due to karst topographical features and soils not supporting seepage irrigation'' as a limiting critical condition for Georgia grown peppers and eggplants. Dow AgroSciences commented that there are no soil restrictions on the uses of 1,3-D in Georgia and asked that that limiting critical condition be revised. Dow AgroSciences is correct that ''soils not supporting seepage irrigation'' is not a limiting critical condition for Georgia and the final rule reflects this change. EPA intended this limiting critical condition to only reflect restrictions due to karst topographical features. This change does not affect the amount of critical use methyl bromide EPA is allocating because EPA's analysis only assumed limitations due to karst topographical features.

EPA proposal inadvertently included ''Local township limits prohibiting 1,3-dichloropropene'' as a limiting critical condition for tomato growers in the Southeast. There are no such township limits in the Southeast. Instead, this critical condition should have been ''Restrictions on alternatives due to karst topographical features and, in Florida, soils not supporting seepage irrigation,'' as was the language in the 2008 CUE Rule. The final rule has added back the appropriate limiting critical condition for those growers in the Southeast.

EPA proposed adding tomatoes grown in Maryland as a critical use when limited by ''high water tables and proximity to environmentally sensitive estuaries which limit use of 1,3-D.'' Dow AgroSciences commented that there are no restrictions on the uses of 1,3-D products in Maryland associated with high water tables or environmentally sensitive estuaries and asked that that Maryland tomatoes thus not be approved as a critical use. EPA has ascertained that there is no labeling restriction concerning high water tables or environmentally sensitive estuaries for 1,3-D and thus the final rule does not include this as a limiting critical condition. Moderate to severe fungal pathogen infestation still remains a limiting critical condition for Maryland tomatoes, as authorized by the Parties to the Protocol. Therefore, EPA is approving Maryland tomatoes as an authorized critical use. Removing the language concerning high water tables and proximity to environmentally sensitive estuaries does not affect the amount of critical use methyl bromide EPA is allocating because EPA's analysis did not include use or acreage estimates where this limiting critical condition would apply. Therefore, EPA is not reducing the estimated amount of demand or the amount of new production based on this change.

EPA also proposed adding ''export to countries which do not allow the use of sulfuryl fluoride'' as a limiting critical condition for commodities. Dow AgroSciences commented that import Maximum Residue Levels (MRLs) exist in countries that import commodities treated with sulfuryl fluoride and asked that this limiting critical condition be removed. EPA disagrees with that this limiting critical condition be removed. EPA has accounted for the Codex MRLs in the 2007 nomination for use in 2009. However, many countries that the U.S. exports to set their own MRLs and many have not yet done so for sulfuryl fluoride. Therefore EPA is retaining the limiting critical condition for the use of methyl bromide in the commodities sector.

Dow AgroSciences also had other comments on limiting critical conditions that have existed in prior CUE Rules. EPA has addressed those comments in the Response to Comments document contained in the docket for this rule.

EPA is finalizing most of the proposed changes to the table in Appendix L, with the exception of the three issues discussed above. The remaining changes reflect the recommendations made by MBTOC and the critical uses authorized by the Parties to the Protocol. Specifically, the changes between this year's critical uses and those in 2008 are: adding cucurbits grown in Maryland and Delaware as a critical use

under the limiting critical conditions listed in the table; moving herbaceous perennials grown in Michigan from forest nursery seedlings to ornamentals; adding ''restrictions on alternatives due to karst topographical features'' as a limiting critical condition for Georgia grown peppers; adding tomatoes grown in Maryland as a critical use under the limiting critical conditions of ''moderate to severe fungal pathogen infestation''; adding ''export to countries which do not allow the use of sulfuryl fluoride'' as a limiting critical condition for commodities; and revising the description of NPMA to remove cocoa beans as was done in the CUN, but in a manner consistent with the CUN.

In addition, EPA is making the following editorial changes to Table I to remove redundancy and ensure that the limiting critical conditions are described uniformly throughout. First, EPA has consolidated, into the same row, all critical users with the same limiting critical condition within a critical use. Second, EPA moved clarifying information from the table to the preamble to improve readability. Thus, EPA clarifies here that the ''local township limits prohibiting 1,3-dichloropropene'' are prohibitions on the use of 1,3-dichloropropene products because local township limits on use of this alternative have been reached. In addition, ''pet food'' under subsection B of Food Processing refers to food for domesticated dogs and cats. Finally, ''rapid fumigation'' for commodities is when a buyer provides short (two working days or fewer) notification for a purchase or there is a short period after harvest in which to fumigate and there is limited silo availability for using alternatives. EPA does not intend for these edits to change the effect of any of the limiting critical conditions, the approved critical user, location of use, or any other aspect of the table.

Since the critical use exemption was first established, many critical users have transitioned to alternatives and a variety of sectors that were once critical uses no longer are. These uses include ginger, golf courses and turf production, tobacco, cocoa beans, and pistachios.

The categories listed in Table I were designated as critical uses for 2009 in Decision XIX/9 of the Parties. The amount of methyl bromide approved for research purposes is included in the amount of methyl bromide approved by the Parties for the commodities for which ''research purposes'' is indicated as a limiting critical condition in Table I. As explained in Section V.D.5., EPA is issuing CSAs to allow the sale of 22,171 kg of methyl bromide from existing stocks for research purposes, and adjusting new production accordingly.

In accordance with the recommendations in Tables 4 and 8 of the TEAP's August 2007 Final Report titled ''Evaluations of 2007 Critical Use Nominations for Methyl Bromide and Related Matters,'' available on the docket for this rulemaking, EPA is allowing the following to use critical use methyl bromide for research purposes: commodities, cucurbits, eggplant (field), nursery stock (fruit, nut, flower), orchard replant, ornamentals, peppers (field), strawberry (field), strawberry runners, sweet potato slips, and tomatoes (field). As discussed below, EPA allows the use of newly-produced methyl bromide for research purposes but encourages researchers to use pre-phaseout inventory by reducing the amount of new production by the amount the Parties authorize for research. In their applications to EPA, these sectors identified research programs that require the use of methyl bromide.

D. Critical Use Amounts

Section V.C. of this preamble explains that Table C of the annex to Decision XIX/9 lists critical uses and amounts agreed to by the Parties to the Montreal Protocol. When added together, the authorized critical use amounts for 2009 total 4,261,974 kilograms (kg), which is equivalent to 16.7% of the U.S. 1991 methyl bromide consumption baseline of 25,528,270 kg as defined at 40 CFR 82.3. However, the maximum amount of authorized new production or import as set forth in Table D of the annex to Decision XIX/9 is 3,961,974 kg (15.5% of baseline), ''minus available stocks.''

EPA's allocation of critical use allowances and critical stock allowances for 2009 applies the existing regulatory framework to the amounts authorized by the Parties to reflect the following factors:

(a) The amount of available stocks;

(b) The amount of unused critical use methyl bromide at the end of 2007 (the carryover amount); and

(c) The amount of methyl bromide authorized for research purposes.

Using the existing framework, EPA also proposed a reduction to accommodate a certain amount of transition to the recently registered fumigant iodomethane for some pre-plant uses. Given recent information concerning the reduced production of another alternative, Telone, EPA is not making a reduction for the uptake of alternatives in this final rule. Commenters' concerns about each of these reductions are described in the sections below.

EPA proposed to issue 1,617,921 kg (6.3% of baseline) of critical use allowances (CUAs) and 2,576,987 kg (10.1% of baseline) of critical stock allowances (CSAs). Generally, commenters were opposed to the proposed level of new production, stating it would be insufficient to meet the needs of critical users and would result in shortages in some areas. Based on comments received on the proposed rule, as well as additional data, EPA is issuing 2,275,715 kg (8.9% of baseline) of critical use allowances, which allow limited amounts of new production and import of methyl bromide for 2009 critical uses up to the amount of 2,275,715 kg as shown in Table III. EPA is also issuing 1,919,193 kg (7.5% of baseline) of critical stock allowances, which allow sales of 1,919,193 kg from existing pre-phaseout inventories for critical uses in 2009. The sub-sections below explain EPA's reasons for issuing these critical use amounts for 2009.

1. Background of Critical Use Amounts

The December 23, 2004, Framework Rule and subsequent CUE rules each took note of language regarding stocks of methyl bromide in relevant decisions of the Parties. In developing this action, the Agency noted that paragraph seven of Decision XIX/9 contains the following language: ''that each Party which has an agreed critical use renews its commitment to ensure that the criteria in paragraph 1 of decision IX/6 are applied when licensing, permitting or authorizing critical use of methyl bromide and, in particular, the criterion laid down in paragraph 1(b)(ii) of decision IX/6.'' Language calling on Parties to address pre-phaseout inventory also appears in prior Decisions related to the critical use exemption.

In the Framework Rule, which established the architecture of the CUE program and set out the exempted levels of critical use for 2005, EPA interpreted paragraph 5 of Decision Ex. I/3, which is similar to Decision XIX/9(7), ''as meaning that the U.S. should not authorize critical use exemptions without including provisions addressing drawdown from stocks for critical uses'' (69 FR 76987). Consistent with that interpretation, the Framework Rule established provisions governing the sale of pre-phaseout inventories for critical uses, including the concept of CSAs and a prohibition on the sale of pre-phaseout inventories for critical uses in excess of the amount of CSAs held by the seller. In addition, EPA noted that pre-phaseout inventories were further taken into account through the trading provisions that allow CUAs

to be converted into CSAs. In developing this final rule, EPA did not propose changes to these basic CSA provisions.

Paragraph 5 of Decision XIX/9 further addresses pre-phaseout inventory of methyl bromide. The Decision states ''that a Party with a critical use exemption level in excess of permitted levels of production and consumption for critical uses is to make up any such differences between those levels by using quantities of methyl bromide from stocks that the Party has recognized to be available.'' In the August 25, 2004, proposed Framework Rule (69 FR 52366), EPA proposed to adjust the authorized level of new production and consumption for critical uses by the amount of ''available stocks.'' The methodology for determining the amount of available stocks considered exports, methyl bromide for feedstock uses, and the need for a buffer in case of catastrophic events. However, the final Framework Rule did not adopt the proposed methodology for determining available stocks. Instead, for the 2005 control period EPA issued CSAs in an amount equal to the difference between the total authorized CUE amount and the amount of new production or import authorized by the Parties (Total Authorized CUE Amount—Authorized New Production and Import).

EPA issued CSAs for the 2006, 2007, and 2008 control periods that represented not only the difference between the total authorized CUE amount and the amount of authorized new production and import but also an additional amount. In the 2006 CUE Rule, EPA issued a total of 1,136,008 CSAs, equivalent to 4.4% of baseline. For that control period, the difference in the Parties' decision between the total CUE amount and the amount of new production and import was 3.6% of baseline. In the 2007 rule, EPA added to the minimum amount (6.3% of baseline) an additional amount (1.2% of baseline) for a total of 1,914,600 CSAs (7.5% of baseline). In the 2008 rule, EPA added to the minimum amount (3.0% of baseline) an additional amount (3.8% of baseline) for a total of 1,729,689 CSAs (6.8% of baseline). EPA reduced the portion of CUE methyl bromide to come from new production and import in each of the 2006–2008 control periods accordingly in order to ensure that the total critical use allocation did not exceed the total amount authorized by the Parties for that year.

As established in these earlier rulemakings, EPA views the allocation of additional CSA amounts as an appropriate exercise of its discretion. The Agency is not required to allocate the full amount of authorized new production and consumption. The Parties agreed to ''permit'' a particular level of production and consumption; they did not—and could not—mandate that the U.S. authorize this level of production and consumption domestically. Nor does the CAA require EPA to exempt the full amount permitted by the Parties. Section 604(d)(6) of the Clean Air Act (CAA) does not require EPA to exempt any amount of production and consumption for critical uses, but instead specifies that the Agency ''may'' exempt amounts for production, import, and consumption, thus providing EPA with substantial discretion in creating critical use exemptions.

The Methyl Bromide Industry Panel commented that EPA abused its discretion by proposing to allocate a much greater number of CSAs than required by the Parties to the Protocol. EPA believes that it has the discretion to allocate beyond the minimum stock drawdown set forth in the Parties' decision, as described above. EPA's basis for setting the specific CSA amount is detailed in the remainder of this notice.

Prior to determining the CSA amount for a particular year, EPA considers what portion of ''existing'' stocks is ''available'' for critical uses. As discussed in the 2008 rulemaking, the Parties to the Protocol recognized in their Decisions that the level of existing stocks may differ from the level of available stocks. For example, Decision IX/6 states that ''production and consumption, if any, of methyl bromide for critical uses should be permitted only if * * * methyl bromide is not available in sufficient quantity and quality from existing stocks.'' In addition, Decision XIX/9, as well as earlier decisions, refers to use of ''quantities of methyl bromide from stocks that the Party has recognized to be available.'' Thus, it is clear that individual Parties have the ability to determine their level of available stocks. Decision XIX/9 further reinforces this concept by including the phrase ''minus available stocks'' as a footnote to the United States' authorized level of production and consumption in Table D. Section 604(d)(6) of the Clean Air Act does not require that EPA adjust the amount of new production and import to reflect the availability of stocks; however, as explained in previous rulemakings, making such an adjustment is a reasonable exercise of EPA's discretion under this provision. In this action, EPA did not propose to change its practice of adjusting the level of new production and import authorized by the Parties to reflect the availability of stocks.

EPA introduced in the 2008 CUE rule a refined approach for determining the amount of existing methyl bromide stocks that is available for critical uses (72 FR 74118). That approach involves the concept of a ''Supply Chain Factor'' (SCF). The SCF represents EPA's technical estimate of the amount of methyl bromide inventory that would be adequate to meet a need for critical use methyl bromide after an unforeseen domestic production failure. The SCF is used in the formula finalized in the 2008 CUE rule for calculating the available stocks. That formula is expressed as $AS = ES - D - SCF$, where AS = available stocks; ES = existing pre-phaseout stocks of methyl bromide held in the United States by producers, importers, and distributors; and D = estimated drawdown of existing stocks. In the 2008 CUE rule, EPA stated that it would use this refined approach in 2008 and each year thereafter as appropriate and feasible (72 FR 14134). EPA is not changing the SCF concept or the formula finalized in the 2008 CUE rule for calculating the available stocks, with the exception that for 2009 EPA will not estimate the drawdown of existing stocks during 2008 but rather, as was encouraged by commenters, use the actual drawdown based on end-of-year reported data. The SCF approach continues to be appropriate and feasible, as it is the most reasonable, efficient, and transparent way for the Agency to continue to facilitate responsible management of the pre-phaseout inventory.

2. Calculation of Available Pre-Phaseout Inventory

In this action, EPA is adjusting the authorized level of new production and consumption for critical uses to account for the amount of existing pre-phaseout inventory that is ''available'' for critical uses. EPA is calculating the amount of existing stocks that is available for critical uses in 2009 based on the SCF and formula introduced in the 2008 CUE final rule (72 FR 74118). EPA is allowing sales of the amount of existing pre-phaseout inventory that the Agency has determined to be available for critical uses by issuing an equivalent number of CSAs on a one-CSA-per-one-kilogram-of-methyl-bromide basis.

As described in the 2008 CUE Rule, EPA calculates the amount of available stocks as follows: $AS_{2009} = ES_{2008} - D_{2008} - SCF_{2009}$, where AS_{2009} is the available stocks on January 1, 2009; ES_{2008} is the existing pre-phaseout stocks of methyl bromide held in the United States by producers, importers,

and distributors on January 1, 2008; D_{2008} is the estimated drawdown of existing stocks during calendar year 2008; and SCF_{2009} is the supply chain factor for 2009.

EPA received comment from MBIP that the Agency has not adequately explained why using a formulaic approach is preferable to utilizing an amount of stocks that is more consistent with past control periods. In response, EPA notes that the formula for calculating available stocks is not a new approach: It was finalized in the 2008 CUE Rule. Information on the development of that formula can be found in the proposed and final 2008 CUE Rules, as well as in the Technical Support Document for the 2008 control period, which is included in the docket for today's action. In addition, the CSA amount allocated in today's final rule is within the same range as past allocations. In previous control periods, EPA has authorized CSAs ranging from 4.4% to 7.5% of baseline. As discussed below, EPA is finalizing a CSA amount of 7.5% of baseline.

As established in the 2008 CUE Rule, ''ES_{2008}'' refers to pre-phaseout inventory—*i.e.,* existing stocks of methyl bromide that was produced before January 1, 2005, and that is still held by domestic producers, distributors, and third-party applicators. January 1, 2005, was the phaseout date for production and import of methyl bromide in the United States. ES_{2008} does not include critical use methyl bromide that was produced after January 1, 2005, and carried over into subsequent years. EPA addresses the carryover amount in section V.D.4 of this preamble. ''ES_{2008}'' also does not include methyl bromide produced (1) under the quarantine and preshipment (QPS) exemption, (2) with Article 5 allowances to meet the basic domestic needs of Article 5 countries, or (3) for feedstock or transformation purposes. Methyl bromide produced for QPS uses or for export to Article 5 countries may not be sold to domestic entities for critical uses and, therefore, is separate from the CUE program. Thus, such amounts have been removed from the calculation of the amount of ''available stocks'' for critical uses.

In the proposed rule, EPA stated that unless the Agency received evidence to the contrary, it would assume that all pre-phaseout inventory is suitable for both pre-plant and post-harvest uses. EPA is making this assumption because the Agency has received no data that show that pre-phaseout inventory is mixed with chloropicrin and is unsuitable for post-harvest uses. One commenter requested that EPA require inventory holders to report information regarding the purity of their stocks. EPA does not believe that such a step is necessary. EPA has not received any data through comments or other means indicating that some pre-phaseout inventory is unsuitable for particular critical uses due to its formulation. Therefore, this final rule assumes that all pre-phaseout inventory is suitable for all uses.

The Agency also sought comment on its presumption that geographic location is not a factor in the availability of pre-phaseout inventory. EPA based this conclusion on the geographic distribution of the companies that are granted CSAs (See Table IV) as well as end of year reporting data submitted by CSA holders regarding the size of their inventory. EPA continues to believe that geography is not a factor in inventory methyl bromide. However, commenters did cite regional shortages of inventoried methyl bromide and questioned the actual availability of pre-phaseout inventory. First, commenters said that pre-phaseout inventory is held by only a small number of distributors. EPA's end-of-year reporting data support this comment and this has been the case since methyl bromide was phased out in 2005. These distributors, however, serve the major markets for methyl bromide. Thus, even though there may be a small number of distributors, this does not necessarily limit the ability to supply customers in different regions.

Second, EPA has received comment that these distributors will likely continue to supply their existing client base, which consist mainly of non-CUE users. These commenters also state that EPA has no authority to require distributors to sell their material to critical users. As a result, the commenters state that critical users who are unable to purchase newly produced material will not have access to any methyl bromide and that the Agency should assume all inventoried material to be unavailable and increase the amount of new production to the level authorized by the Parties.

EPA disagrees that it should allocate increased production of new methyl bromide in response to distributors' decisions not to sell their pre-phaseout inventory to critical users. Issues concerning supply of pre-phaseout inventory are addressed in the Response to Comment Document for the 2008 CUE Rule. Briefly, EPA regards this material as ''available'' because it is owned by someone other than the end user. While a distributor might prefer to sell methyl bromide to non-critical users to satisfy prior contracts or internal business decisions, this is not the result of any EPA regulatory constraint. EPA does not currently require the sale of inventory to critical users. However, beginning in 2010, distributors will be unable to sell to non-critical users due to labeling changes to methyl bromide. Under the Reregistration Eligibility Determination (RED) for methyl bromide soil fumigation uses issued in July 2008, uses already considered critical by the Parties have been considered eligible for reregistration, along with QPS uses. More information is available in the methyl bromide RED, available on the Web at: *http://www.epa.gov/oppsrrd1/REDs/methylbromide-red.pdf.*

a. Estimated Drawdown

In the 2008 CUE rule, EPA estimated the drawdown of existing stocks (D_{2008}) by using a simple linear fit estimation of inventory data from all available years. For the 2009 CUE rule, EPA proposed to estimate drawdown using an exponential projection. Using that method, EPA projected that the pre-phaseout methyl bromide inventory, which was 6,457,806 kg on January 1, 2008, would be drawn down by 1,528,806 kg during 2008 resulting in a pre-phaseout inventory of 4,929,000 kg on January 1, 2009. Under the exponential model, 2,576,987 kg (10.1% of baseline) of existing pre-phaseout stocks of methyl bromide would have been deemed ''available'' for critical uses on January 1, 2009. EPA also provided the results of the linear model for comment. Under the linear model, EPA estimated a much greater drawdown leading to a lower amount of available stocks, 777 MT (3% of baseline), in 2009. EPA invited comment on those two different analyses or any alternative method of estimating drawdown. Comments were unanimous that EPA should use actual end-of-year data on inventory levels instead of a statistical estimate of drawdown. EPA agrees that it would be less accurate to use an estimate when the Agency has actual reported data at the time it is preparing the final rule. Therefore, for 2009, EPA is using actual end-of-year data submitted to the Agency under the reporting requirements of 40 CFR 82.13. EPA responds to additional comments about various statistical methods in the response to comments document. EPA is not deciding in this action how to calculate the drawdown for future years. Such calculations may use an estimate or actual reported data depending on the timing of those future rules.

The Methyl Bromide Industry Panel, in its comment to the Agency, provided

EPA with preliminary data regarding the size of the pre-phaseout inventory. MBIP collected this data through an outside accounting firm who contacted most of the CSA holders in mid-December. The data showed that in mid-December, the inventory was 4,252,931 kilograms. EPA welcomed this initial estimate because it provided crucial early information in formulating a final rule before the end of year data was reported February 15. The Agency may find such information to be useful in drafting future CUE allocation rules as well. In this final rule, EPA is using the actual end-of-year data as it is more complete than the information MBIP submitted.

The reported inventory on December 31, 2008, was 4,271,226 kg. This is less than the 4,929,000 kilograms that EPA estimated under the exponential model (although more than the 3,129,000 kg estimated by the linear model). This means that the drawdown for 2008 was 2,186,600 kg. The effect of this value on the levels for new production and CSAs is discussed in more detail below.

EPA also asked for comment on its discussion of the market conditions that could be affecting the decline in inventory use, including whether inventory during 2008 is being depleted at rates similar to 2007 or whether it is being depleted faster than that. For 2008, the drawdown did not appear to have adhered precisely to either an exponential or linear curve. EPA still believes that the market conditions in 2008 are substantively different from those in 2004, as described in the proposed rule. First, the Critical Use Exemption process did not exist in 2004, as that was the last year of the methyl bromide phaseout. EPA believes that the economics and use patterns since the 2005 phaseout differ from those pre-phaseout. Second, at the beginning of 2004, the inventory was 16,422,000 kg MT, a substantially higher amount than an inventory of 4,271,226 kg at the end of 2008. Third, the price of methyl bromide has increased roughly 30–50% since 2004. Therefore, today growers face stronger economic incentive to use alternatives and reduce application rates than they did in 2004. Fourth, more alternatives are available, including sulfuryl fluoride and iodomethane, reducing the total demand for methyl bromide. However, the comments suggest that the rate of drawdown at this point is based mostly on the business decisions of the companies that hold pre-phaseout inventory. In the proposed rule, EPA stated that less of the inventory was used for non-critical uses in 2007 than 2006. In 2006, 1,519 MT of pre-phaseout inventory was for non-critical uses, whereas in 2007, this dropped to 291 MT. This pattern does not appear to continue through 2008. Preliminary review of the data submitted for 2008 show an increase in sales of inventory for non-critical uses. The exact amounts will be contained in the 2008 Accounting Framework submitted to UNEP in late spring 2009.

The goal of EPA's methodology for the CSA allocation is to allocate CSAs equal to ''available stocks'' such that the private sector has the flexibility to retain in inventory the amount needed in case of a catastrophic supply chain failure (the Supply Chain Factor). As the Agency stated in the 2008 CUE Rule and in Section V.D.3 below, once the inventory declines below the SCF level, the Agency will not require any additional drawdown of stocks beyond what is required in the authorization by the Parties to the Protocol for that control period.

b. Supply Chain Factor

The supply chain factor (SCF) represents EPA's technical estimate of the amount of pre-phaseout inventory that would be adequate to meet a need for critical use methyl bromide after an unforeseen domestic production failure. As described in the 2008 CUE rule, EPA estimated that in the event of a major supply disruption, it would take 15 weeks for significant imports of methyl bromide to reach the U.S. Using updated numbers on average production during each quarter of the year, EPA estimated in the proposed 2009 CUE rule that critical use production in the first 15 weeks of each year (the peak supply period) accounts for 55% of annual critical use methyl bromide production. In the proposed rule, EPA estimated that the peak 15-week shortfall in 2009 could be 2,352,013 kg (55.186% × 4,261,974 kg). EPA received two comments regarding the SCF. The MBIP generally supported the inclusion of the SCF but commented that it should be equivalent to one year's supply of material rather than 55%, which they asserted would not be sufficient to meet the needs of critical users were a catastrophic disruption to occur. EPA disagrees with this comment, as it relates to decisions made in the 2008 CUE Rule rather than any new decisions made for 2009. MBIP made the same comment in the 2008 proposed rule and EPA responded to their comments in the 2008 Response to Comments document contained in the docket to this rule. As EPA states in that document, the SCF is based on conservative assumptions about the effect of a disruption.

MBIP also commented that the rate of inventory drawdown that would result from the new production levels in the proposed rule would lead to too little stockpiled methyl bromide for a Supply Chain Factor in 2010 and beyond. EPA disagrees that this will occur. First, as discussed elsewhere, this final rule allocates more for new production and authorizes less to be taken from stocks than the proposed rule. Second, EPA has calculated a preliminary estimate of the SCF for 2010 based on the amounts authorized by the Parties, and believes that there will be sufficient inventory to meet the SCF.

Ultimately, MBIP's comment appears to be based on the assumption that the Agency seeks through this rule to deplete the inventory to zero. EPA reiterates that the Agency's purpose in utilizing the SCF is to give the private sector the flexibility to retain in inventory the amount needed in case of a catastrophic supply chain failure. EPA does believe that the amount of drawdown should exceed the minimum amount required by the Parties to the Protocol as long as the inventory remains above the SCF level. While MBIP's comment suggested that EPA simply maintain the same level of CSAs as was finalized last year, the Agency believes that using the available stocks formula adopted in the 2008 CUE Rule provides a more rigorous approach. While MBIP states that under the proposed rule, the level of existing stocks would be ''dangerously close to EPA's 55% SCF target,'' EPA believes that this is appropriate, as it is the Agency's goal to draw down inventory levels to the SCF target.

EPA also received comments from Dow AgroSciences, which argued that the SCF is unnecessarily conservative, given the remoteness of an event such as an unforeseen domestic production failure occurring. As EPA stated in the 2008 CUE Rule, the Agency did not conduct a statistical or probability analysis of the likelihood of this scenario. EPA recognizes that a catastrophic loss is unlikely, but this does not obviate the need to plan for such a scenario. Methyl bromide, unlike most commercial chemicals, is produced at only one facility. Therefore, a scenario in which this facility completely ceases production is of special concern. While EPA expects private entities to take prudent steps to protect themselves, EPA does not wish to render them incapable of maintaining a reasonable supply buffer.

EPA explained in the 2008 CUE rule that the SCF is affected by the uptake of alternatives, because the SCF is based on the peak demand and the uptake of

alternatives affects the peak demand for methyl bromide. The proposed rule did not adjust for the uptake of iodomethane because the analysis had not yet been completed. Since then, EPA has developed projections for uptake of iodomethane in 2009. Nevertheless, the allocation in the final rule does not explicitly reflect uptake of iodomethane because, due to the Telone shortage discussed below, the Agency is not making any reductions to account for the uptake of alternatives. Therefore, EPA will finalize the proposed value of 2,352,013 kg for the SCF. Consistent with the 2008 CUE rule, this is a conservative estimate of the amount of methyl bromide needed to cover a supply disruption during the estimated peak 15-week period of critical use supply.

As stated in the 2008 CUE Rule, EPA reiterates that the SCF is not a ''reserve'' or ''strategic inventory'' of methyl bromide. Rather, it is merely an analytical tool used to provide greater transparency regarding how the Agency determines CSA amounts, in cases where CSA amounts are greater than the amounts stipulated by the Parties. For further general discussion of the SCF, see the final 2008 CUE rule (72 FR 74118). Further detail about the analysis used to derive the value for the 2009 SCF is provided in the Technical Support Document available on the public docket for this rulemaking.

3. Approach for Determining Critical Use Amounts

In the proposed rule, EPA applied the SCF to estimate that 2,576,987 of pre-phaseout inventory would be ''available stocks''. Following its CSA allocation framework, EPA proposed to allow the sale of 2,576,987 kg from existing stocks for critical uses in 2008 by allocating an equivalent number of CSAs. As in past years, EPA proposed to adjust the critical use allowance (CUA) amounts accordingly, so that the total number of CUAs and CSAs is not greater than the total critical use amount authorized by the Parties. The proposed rule noted that under EPA's framework, the Agency may allocate a total number of CUAs and CSAs that is less than the total critical use amount authorized by the Parties for 2009 to account for carryover amounts of methyl bromide, amounts for research purposes or other appropriate reasons, including updated information on alternatives.

EPA received one comment that the total number of CUAs and CSAs should not be less than the amount authorized by the Parties to the Protocol because the full amount is needed for critical uses. In making reductions for research purposes and to account for carryover material, EPA is following its existing framework. The reductions for these purposes are both necessary and appropriate, as discussed below. Furthermore, these reductions are minor. While the Parties approved 4,261,974 kg (or 16.7% of baseline) for use in 2009, this final rule allocates 4,194,908 kg (or 16.4% of baseline). EPA believes that this total CUE amount in the final rule meets the needs of critical users while still responding to decisions taken by the Parties regarding carryover and research amounts.

More commenters were concerned about the level of CSAs than the total amounts of CUAs and CSAs being allocated. Commenters stated that the ratio of CUAs to CSAs was inappropriate and would also not allow for production or import of enough new material to meet the needs of critical users. As discussed elsewhere in this preamble, EPA is finalizing CUAs and CSAs based on new inventory data which will allow for greater levels of new production. The CUAs and CSAs in this final rule were calculated using the approach adopted in the 2008 CUE Rule, but have changed from the proposal because of new data showing the actual inventory levels at the end of 2008. Some commenters may still contend that inventory is declining too rapidly and that new production should thus be increased. As stated elsewhere in this preamble, EPA believes that it has appropriately applied its discretion regarding the rate of drawdown of pre-phaseout inventory. Consistent with the 2008 CUE Rule, the allocations for 2009 continue to allow private entities to maintain an amount equal to the ''supply chain factor''—*i.e.,* an amount that would allow continued availability of pre-phaseout inventory in the event of a catastrophic disruption to supply. As discussed above, this approach is consistent with the relevant Decisions of the Parties, especially Table D of the Annex to Decision XIX/9, which for 2009 explicitly authorizes for the United States a certain amount of new production and import ''minus available stocks.'' After considering all of the comments received, EPA believes that this is the most reasonable, efficient, and transparent way for the Agency to continue to facilitate responsible management of pre-phaseout inventory. EPA calculates that, as of January 1, 2009, 1,919,193 kg of pre-phaseout inventory meets the definition of ''available stocks'' as calculated using the approach described in Section V.D.2. of this preamble. Therefore, with this action the Agency is allowing 1,919,193 kg of methyl bromide to be supplied from pre-phaseout inventory for critical uses in 2009 by issuing an equivalent number of CSAs, and adjusting the amount of CUAs accordingly. EPA also calculates that there will be sufficient pre-phaseout inventory at the beginning of the 2010 control period to satisfy the amount of 2010 inventory drawdown (470,000 kg) for critical uses identified by the Parties in Decision XX/5.

To summarize, the critical use amounts authorized by the Parties in Decision XIX/9 for 2009 total 4,261,974 kg. The maximum amount of authorized new production or import as set forth in Table D of the Annex to Decision XIX/9 is 3,961,974 kg, ''minus available stocks.'' Applying the ''available stocks'' approach finalized in the 2008 CUE Rule, EPA is expecting 1,919,193 kg of 2009 critical use needs to be met from pre-phaseout inventory and thus is issuing CSAs in that amount. As in past years, EPA is adjusting the amount of CUAs accordingly, so that the sum of CUAs and CSAs is not greater than the total amount authorized by the Parties. After accounting for the additional reductions for unsold critical use methyl bromide at the end of 2007 and reductions to encourage research amounts to be supplied from pre-phaseout inventory, EPA is allowing 2,275,715 kg of new production and import for critical uses in 2009.

4. Treatment of Carryover Material

As described in the December 23, 2004, Framework Rule (69 FR 76997), EPA is not permitting entities to build stocks of methyl bromide produced or imported after January 1, 2005, under the critical use exemption. Under the current regulations, quantities of methyl bromide produced, imported, exported, or sold to end-users under the critical use exemption in a calendar year must be reported to EPA the following year. These reporting requirements appear at 40 CFR 82.13(f)(3), 82.13(g)(4), 82.13(h)(1), 82.13(bb)(2), and 82.13(cc)(2). EPA uses the reported information to calculate the amount of critical use methyl bromide that has been produced or imported in that control period but not exported or sold to end-users in that year. An amount equivalent to this ''carryover,'' whether pre-plant or post-harvest, is then deducted from the total level of allowable new production and import in the year following the year of the data report. For example, EPA deducted the amount of carryover from 2006 (reported in 2007) from the allowable amount of production or import for critical uses in 2008. As discussed in

Section V.D.2., carryover material is not included in EPA's definition of existing stocks (ES) as it applies to the formula for determining the amount of available stocks (AS). EPA is not including carryover amounts as part of ES, because doing so could lead to a double-counting of carryover amounts, with proportionate effects on the calculation of critical use allowances (CUAs).

EPA stated in the proposed rule that it calculates the amount of carryover CUE material each year based on data reported to EPA by distributors and applicators regarding sales to end-users. In 2008, 57 entities reported information to EPA under the reporting requirements at 40 CFR 82.13 about critical use methyl bromide production, imports, exports, sales, and/or inventory holdings in 2007. In 2007, 4,314,150 kg of critical use methyl bromide was acquired through production or import. The information reported to EPA indicates that 4,269,255 kg of critical use methyl bromide was exported or sold to end-users in 2007. The carryover amount at the end of 2007 was thus 44,895 kg, which is the difference between the reported amount of critical use methyl bromide acquired in 2007 and the reported amount of exports or sales of that material to end users in 2007 (4,314,150 kg − 4,269,255 kg = 44,895 kg). EPA's calculation of the amount of carryover at the end of 2007 is consistent with the method used in the final 2008 CUE Rule, and with the method agreed to by the Parties in Decision XVI/6, which established the Accounting Framework for critical use methyl bromide, for calculating column L of the U.S. the Accounting Framework. The 2007 U.S. Accounting Framework is available in the public docket for this rulemaking.

As a result of stakeholder concerns regarding the completeness of reporting and in response to public comment, EPA stated in the 2008 CUE Rule that it would collect the names of all distributors and third-party applicators with critical use exemption reporting requirements under 40 CFR 82.13 using its information gathering authority under section 114 of the Clean Air Act. On January 31, 2008, EPA sent letters to all producers, distributors, and third-party applicators of critical use methyl bromide that it was aware of asking for ''the name and address of each non-end user entity (i.e. distributors of methyl bromide and third-party applicators of methyl bromide) to which your company sold critical use methyl bromide during calendar year 2007.'' As a result, EPA received contact information for distributors and third-party applicators that had never reported sales data to EPA as well as actual sales reports from some of those new entities. On March 11, 2008, the Agency sent a follow-up letter to the previously unknown entities that had not reported sales data for 2007 and reminded them of their reporting obligations under 40 CFR 82.13. The Agency received 18 responses from previously unknown entities satisfying the required annual reporting requirements.

MBIP suggested that EPA calculate the carryover as the sum of all critical use methyl bromide that companies report as being held in inventory. MBIP raised this issue in the 2008 CUE Rule and EPA continues to maintain that the established methodology is a simple and accurate way to calculate the carryover amount each year and that adjusting the established method could create international confusion about U.S. reporting. More details of MBIP's proposals to modify how the carryover amount is calculated, as well as EPA's response, are found in the 2008 CUE Rule Preamble and Response to Comments document.

In previous CUE rules, EPA has used the approach described in the Framework Rule for implementing carryover reductions. Consistent with that approach, EPA is reducing the total level of new production and import for critical uses by 44,895 kg to reflect the total level of carryover material in existence at the end of 2007.

5. Amounts for Research Purposes

There continues to be a need for methyl bromide for research purposes. A common example is an outdoor field experiment that requires methyl bromide as a standard control treatment with which to compare the trial alternatives' results. EPA notes that the use of methyl bromide under the critical use exemption for research is distinct from the use of methyl bromide under the laboratory and analytical use exemption. Research uses under the critical use exemption refer to field trials of alternative fumigants where methyl bromide is used as a control. Research uses under the laboratory and analytical use exemption refer to methyl bromide used as a reference or standard; in laboratory toxicology studies; to compare the efficacy of methyl bromide and its alternatives inside a laboratory; and as a laboratory agent which is destroyed in a chemical reaction in the manner of feedstock. Decision XVIII/15(1). The critical use sectors that were approved by the Parties to use methyl bromide for research purposes in 2009 are listed in Section V.C. and have ''research purposes'' as a limiting critical condition in Table I of this preamble. While use of methyl bromide for the research purposes listed in that section is a critical use, EPA has consistently encouraged research needs be met through the sale of inventory by deducting the amount needed for research from the overall critical use production level and issuing additional CSAs in that amount.

MBIP commented that because the inventory is so low, EPA should increase the level of new production by 22,171 kg instead of issuing CSAs for that amount. EPA disagrees, and a detailed analysis of the amount of available stocks, explained further in Section V.D.2 of this preamble, finds that more than 1,900,000 kg of pre-phaseout inventory is available for critical uses. EPA is therefore allowing the sale of 22,171 kg of pre-phaseout inventory for research purposes in 2009 to account for the amount authorized for those purposes. EPA is allowing methyl bromide sale from stocks for exempted research purposes by expending CSAs. The Agency continues to encourage methyl bromide suppliers to sell inventory to researchers and to encourage researchers to purchase inventory for research purposes.

6. Methyl Bromide Alternatives

In this rule, as in previous CUE rules, EPA has considered new data regarding alternatives that was not available at the time the U.S. Government submitted its Critical Use Nomination (CUN) to the Parties. EPA has used this new information in deciding whether to adjust the amount of new production. For example, in the 2006 CUE Rule (71 FR 5985), EPA adjusted the allocation for new production in order to account for the recent registration of sulfuryl fluoride. That allocation reflected transition rates that were included for the first time in the 2007 U.S. Critical Use Nomination (CUN). In the 2007 CUE Rule (72 FR 74139), EPA explained that the transition rates had already been applied as part of the international review process for that year and did not apply them as part of the Agency's domestic rulemaking. EPA did, however, reduce the total volume of critical use methyl bromide in the final CUE rule for 2008 by 27,769 kg because the transition rates did not account for the uptake of iodomethane in various pre-plant sectors or sulfuryl fluoride in cocoa fumigation.

For 2009, EPA is taking into consideration new information about iodomethane and Telone. Absent other factors, new data on the uptake of iodomethane in 2009 would lead the Agency to adjust the CUA allocation to

account for the uptake of this alternative. Through the public comments, EPA also received information regarding a shortage in Telone production, the magnitude of which is uncertain but expected to be significant. EPA therefore believes that it would be imprudent to make a reduction for iodomethane in the face of this substantial but currently unquantifiable reduction in Telone. EPA also received comments regarding the uptake of sulfuryl fluoride. As described below, the Agency does not believe that this information is new or sufficient to adjust new production levels for 2009. Therefore, EPA is not making any adjustment to the authorized amount of new production to account for new data regarding alternatives.

EPA proposed to reduce critical use allowances to account for new information about the uptake of iodomethane. The TEAP report of August 2007 included reductions based on the transition rates for alternatives considered in the 2009 CUN. These alternatives included sulfuryl fluoride, but not iodomethane, which was not yet registered for use. The TEAP's recommendations were then considered in the Parties' 2009 authorization amounts, as listed in Decision XIX/9. Therefore, with the exception of iodomethane, transition rates accounting for the uptake of alternatives like sulfuryl fluoride have already been applied for authorized 2009 critical use amounts. Furthermore, the 2010 CUN, which is the U.S. Government's last opportunity to adjust the 2009 authorization, did not conclude that transition rates should be increased for 2009. As the 2010 CUN reflected, the United States Government had not found new information that supports changing the 2009 transition rates included in the 2009 CUN and applied by MBTOC.

After considering new information about iodomethane, EPA expects that in 2009 iodomethane will be a technically and economically feasible alternative for many pre-plant applications. Beginning in Fall 2008, iodomethane obtained a full pesticide registration for use as a soil fumigant by EPA for a limited number of crops. Iodomethane also received state registrations by all states except California, New York, and Washington.

Iodomethane is currently registered on food crops (peppers, tomatoes, strawberries) and non-food nursery crops (ornamentals, forest seedlings, and strawberry nurseries). EPA has assumed uptake on only the food crops at this time. Although it is registered on non-food nursery crops, the Agency has not assumed any uptake for 2009. This is in keeping with the Agency's policy of being protective of nursery crops until there is certainty that use of the newly registered alternative is efficacious on nematodes, diseases, and fungi and can meet any certification requirement. There are two major CUE food crops that do not have an iodomethane registration: Curcurbits and eggplants. EPA did not estimate any uptake on those crops. For the crops and states where iodomethane is registered, EPA has estimated that an additional 15 percent of the critical use methyl bromide authorized by the Parties for 2009 can transition to iodomethane use. The Agency's analysis, described in a memo on the docket for this action, estimates that iodomethane can feasibly replace 262,035 kg of methyl bromide in 2009.

MBIP commented that EPA may not reduce new production to account for the uptake of iodomethane because EPA did not provide a meaningful opportunity to comment. MBIP states that EPA did not explain the factors it would consider in assessing the uptake of iodomethane or include a memo in the docket setting forth the Agency's methodology, and that accounting for anything other than a *de minimis* uptake of iodomethane would be contrary to administrative law. EPA disagrees that it could not account for the uptake of iodomethane in the final rule. EPA provided for reference the estimated market uptake for iodomethane in the 2008 CUE Rule along with the number of states in which iodomethane was registered at that time compared to the date of the proposed rule. While EPA did not place the analysis conducted for the 2008 CUE Rule in the 2009 Rule docket prior to proposal, EPA's methodology for estimating uptake can be found in the docket to the 2008 Final CUE Rule and has been reviewed and commented upon by MBIP in the past. EPA believes that it has the discretion to make a reduction to account for iodomethane uptake based on the information provided in the proposal and the methodology used in 2008. However, as discussed further below, EPA is not making such a reduction in this rule.

EPA also received comments that it should make reductions for increased use of sulfuryl fluoride. As described above, data about the uptake of sulfuryl fluoride was included in the 2009 CUN and thus was included in the TEAP's August 2007 recommendations. Dow AgroSciences commented that sulfuryl fluoride can currently replace 100% of current post-harvest methyl bromide uses and that EPA should therefore reduce the allocation of methyl bromide to account for market advances of sulfuryl fluoride. EPA does not believe that the data Dow AgroSciences submitted was applicable to the 2009 control period. Additionally, Dow AgroSciences did not submit economic data regarding the transition to sulfuryl fluoride. While many post-harvest users submitted comment expressing support for sulfuryl fluoride as an efficacious fumigant, the Agency does not yet have the economic data to support a faster transition rate in 2009 than was contained in the CUN. Therefore, EPA is not reducing new production of methyl bromide to account for the adoption of sulfuryl fluoride in the post-harvest sector.

EPA also received information that Dow AgroSciences has reduced its production of 1,3-D (marketed as Telone) for the first half of 2009. The comment states, and the Agency has confirmed, that 1,3-D is a co-product of a chemical used in the plastics industry. The recent downturn in the economy has resulted in less demand of that chemical. Dow AgroSciences has produced less of that chemical and as a result the production of 1,3-D has similarly declined. Commenters believe that this shortage will place greater pressure on stockpiled methyl bromide as growers facing a shortage of Telone will be forced to rely on the pre-phaseout inventory.

EPA agrees that a shortage of Telone in 2009 will result in a greater reliance on methyl bromide, whether newly produced or pre-phaseout inventory. Some growers who had planned to transition to Telone this year will likely not do so and others who had already transitioned to Telone may instead have to revert to methyl bromide for this season. Other crops that use Telone, such a potatoes and tobacco, will not be able to switch to critical use methyl bromide in 2009 as they are not critical use crops.

The Agency believes that it should treat the new information on Telone shortages in the same way as other new data on alternatives. In previous CUE rules, EPA has reduced the amount of new production to account for the expected uptake of alternatives such as sulfuryl fluoride and iodomethane. In this instance, EPA believes that it should not ignore the new information about the reduced production and therefore opportunity for use of an alternative. This reduction in supply directly affects the economic feasibility of Telone in a way not contemplated in the CUN.

EPA is currently unable to quantify the effect that a reduction in Telone

production may have on critical users of methyl bromide. EPA does not know how long the reduction will last because it is due to a downturn in the economy, and the demand for the chemical with which 1,3-D is co-produced. While Dow AgroSciences has only announced this decision for the first half of 2009, neither Dow AgroSciences nor EPA can estimate the length of the economic downturn. EPA is thus unable to estimate the extent of the shortage.

EPA does have some data, however, to suggest that there will be an effect and that action is warranted. EPA anticipates this effect will be greater in California, which has not registered iodomethane, than in the Southeast where that alternative is available. In 2007, Telone was the fifth-most-used pesticide in California by pounds of active ingredient, according to the California Department of Pesticide Regulation. According to that data, strawberries are the largest user of Telone, with over 860,000 kg applied in 2007. Another 356,000 kg were used for ''soil fumigation/preplant.'' Using this data, EPA estimates that at least 1,450,000 kg of Telone were applied in California in 2007 on CUE crops. This compares to the 4,269,255 kg of methyl bromide used throughout the U.S. in 2007, as reported to UNEP in the 2007 Accounting Framework. Any reduction in Telone production will therefore likely result in an increase in the use of methyl bromide, assuming the limiting critical conditions are met. EPA notes, however, that Telone usage on CUE crops is only a small fraction of the total amount of Telone used. EPA estimates that about 13,000,000 kg of Telone is used on a variety of crops, with potatoes and tobacco constituting about half of that use. The effect on methyl bromide will depend in large part on how Telone is distributed, and whether some growers will have greater access to what is produced than others.

Given these uncertainties, EPA is unable to model the effects of the shortage with the same precision used to model the uptake of iodomethane. The Agency does anticipate pressure on newly produced methyl bromide as well as pre-phaseout inventory as a result of this shortage. EPA believes that it would be imprudent to make a reduction for iodomethane in the face of this substantial but unquantifiable reduction in Telone production. Therefore, for the 2009 control period, EPA is not adjusting the amount of new production either upward or downward to account for new information regarding alternatives. For the same reasons, EPA is also not making a reduction for the uptake of alternatives when calculating the supply chain factor. EPA will consider any appropriate adjustments for iodomethane and Telone in the 2010 CUE Rule based on information available at the time that rule is developed.

7. Summary of Calculations

The calculations described above for determining the level of new production and critical stock allowances are summarized in Table II below:

TABLE II—SUMMARY OF CALCULATIONS

	Kilograms
Step 1: Calculate supply chain factor	
U.S. authorization for 2009	4,261,974
− Further reduction for uptake of alternatives	0
= One year's CUE need	4,261,974
× Percentage of year's production to recover from production failure	55.186%
= Supply Chain Factor	2,352,013
Step 2: Calculate available stocks	
Existing pre-phaseout inventory on January 1, 2008 (''ES2008'')	6,457,806
− Drawdown of inventory during 2008 (''D2008'')	2,186,600
− Supply Chain Factor	2,352,013
= Available stocks (''AS2009'') = Critical Stock Allowance	1,919,193
Step 3: Calculate carryover	
Reported as produced/imported in 2007	4,314,150
− Reported as sold in 2007	4,269,255
= Carryover	44,895
Step 4: Calculate new production	
U.S. authorization for 2009	4,261,974
− Critical Stock Allowance (Step 2)	1,919,193
− Carryover (Step 3)	44,895
− Amounts Used for Research	22,171
− Uptake of alternatives	0
= New production = Critical Use Allowance	2,275,715

E. The Criteria in Decisions IX/6 and Ex. I/4

Paragraphs 2 and 7 of Decision XIX/9 request Parties to ensure that the conditions or criteria listed in Decisions Ex. I/4 and IX/6, paragraph 1, are applied to exempted critical uses for the 2009 control period. A discussion of the Agency's application of the criteria in paragraph 1 of Decision IX/6 appears in sections V.A., V.C., V.D., and V.H. of this preamble. The CUNs detail how each critical use meets the criteria listed in paragraph 1 of Decision IX/6, apart from the criterion located at (b)(ii), as well as the criteria in paragraphs 5 and 6 of Decision Ex. I/4.

The criterion in Decision IX/6(1)(b)(ii), which refers to the use of available stocks of methyl bromide, is addressed in sections V.D., V.G., and V.H. of this preamble. The Agency has previously provided its interpretation of

the criterion in Decision IX/6(1)(a)(i) regarding the presence of significant market disruption in the absence of an exemption, and EPA refers readers to the 2006 CUE final rule (71 FR 5989) as well as to the memo on the docket titled ''Development of 2003 Nomination for a Critical Use Exemption for Methyl Bromide for the United States of America'' for further elaboration.

The remaining considerations, including the lack of available technically and economically feasible alternatives under the circumstance of the nomination; efforts to minimize use and emissions of methyl bromide where technically and economically feasible; the development of research and transition plans; and the requests in Decision Ex. I/4(5) and (6) that Parties consider and implement MBTOC recommendations, where feasible, on reductions in the critical use of methyl bromide and include information on the methodology they use to determine economic feasibility, are all addressed in the nomination documents.

Some of these criteria were evaluated in other documents as well. For example, the U.S. has further considered matters regarding the adoption of alternatives and research into methyl bromide alternatives, criterion (1)(b)(iii) in Decision IX/6, in the development of the National Management Strategy submitted to the Ozone Secretariat in December 2005 and in ongoing consultations with industry. The National Management Strategy addresses all of the aims specified in Decision Ex. I/4(3) to the extent feasible and is available in the docket for this rulemaking.

F. Emissions Minimization

Decision XIX/9, paragraph 11 states that Parties shall request critical users to employ ''emission minimization techniques such as virtually impermeable films, barrier film technologies, deep shank injection and/or other techniques that promote environmental protection, whenever technically and economically feasible.'' In the proposed rule, EPA encouraged growers to use such techniques but did not propose to require them. At the public hearing for this action the California Strawberry Commission expressed its opinion that EPA should create a regulatory incentive for emissions reduction. Similarly, Dow AgroSciences commented that emissions minimization measures, potentially including application rate reductions, soil sealing requirements, minimum application depths, and maximum soil temperatures be mandated and not merely recommended.

In the judgment of USG scientists, use of virtually impermeable film (VIF) tarps allows pest control with lower application rates while minimizing emissions. EPA encourages the use of tarps by reflecting the lower application rates that are necessary when using tarps in its 2009 nomination. EPA believes that reducing supply through the phaseout provides incentives for use minimization and therefore limits emissions. EPA disagrees, however, that the 2009 CUE rule should require the use of emissions minimization techniques, as the Agency did not propose to do so. The Agency continues to investigate the emissions reductions benefits of using various types of tarps, recognizing the lack of data in field situations, variability in efficacy in reducing emissions by application type (broadcast vs. raised bed), as well as regulatory prohibitions on less permeable tarps in California. EPA has placed a memo detailing some of this analysis into the docket for this rule. Users of methyl bromide should make every effort to minimize overall emissions of methyl bromide by implementing measures such as the ones listed above, to the extent consistent with State and local laws and regulations. The Agency also continues to encourage researchers and users who are successfully utilizing such techniques to provide such information with their critical use applications.

G. Critical Use Allowance Allocations

A critical use allowance (CUA) is a privilege granted by EPA, using its authority under Section 604(d)(6) of the Clean Air Act, that enables the holder to produce or import one kilogram of methyl bromide for an approved critical use during the specified control period. These allowances expire at the end of the control period and, as explained in the Framework Rule, are not bankable from one year to the next. The allocation of 2009 pre-plant and post-harvest CUAs to the entities listed below is subject to the trading provisions at 40 CFR 82.12, which are discussed in section V.G. of the preamble to the Framework Rule (69 FR 76982).

EPA proposed to allocate 2009 critical use allowances for new production or import of methyl bromide up to the amount of 1,617.921 kg (6.3% of baseline). EPA sought comment on the total levels of exempted new production or import for pre-plant and post-harvest critical uses in 2009. For the reasons discussed in Section V.D. of this preamble, EPA is adjusting the proposed CUA amounts to account for (1) new data regarding the drawdown of pre-phaseout inventory, (2) carryover of unsold methyl bromide in 2007, and (3) amounts authorized by the Parties for research.

Therefore, the total critical use exemption amount for 2009 is 4,194,908 kg (16.4% of baseline), with 2,275,715 kg (8.9% of baseline) of critical use allowances allowing new production or import, and the remaining amount, 1,919,193 kg (7.5% of baseline), available through critical stock allowances (CSAs) that allow critical users to access pre-phaseout methyl bromide. EPA is continuing to apportion company-specific CUA allocations on the basis of the 1991 baseline consumption share of the companies listed in Table III. The updated calculation spreadsheet is available in the docket. The CUAs are allocated as follows:

TABLE III—PROPOSED ALLOCATION OF CRITICAL USE ALLOWANCES

Company	2009 critical use allowances for pre-plant uses* (kilograms)	2009 critical use allowances for post-harvest uses* (kilograms)
Great Lakes Chemical Corp. A Chemtura Company	1,249,703	133,249
Albemarle Corp	513,906	54,795
ICL–IP America	283,995	30,281
TriCal, Inc	8,843	943
Total [2]	2,056,448	219,267

* For production or import of Class I, Group VI controlled substance exclusively for the Pre-Plant or Post-Harvest uses specified in appendix L to 40 CFR part 82.
[2] Due to rounding, numbers do not add exactly.

EPA received comment that Ameribrom changed its name to ICL–IP America. This new name is reflected in Table III and in the final rule.

Paragraph 6 of Decision XIX/9 states ''that Parties shall endeavor to license, permit, authorize or allocate quantities of critical-use methyl bromide as listed in tables A and C of the annex to the present decision.'' This is similar to language in Decisions Ex. I/3(4), Ex. II/1(4), XVII/9(4), and XVIII/13(5) regarding 2005, 2006, 2007, and 2008 critical uses, respectively. The language from these Decisions calls on Parties to endeavor to allocate critical use methyl bromide on a sector basis.

As it did in the final Framework Rule (69 FR 76989) and each critical use allocation rulemaking since, EPA is allocating critical use allowances on a lump-sum, or universal basis, modified to include distinct caps for pre-plant and post-harvest uses. The Agency continues to believe that this is the most efficient and least burdensome approach that would achieve the desired environmental results, and that a sector-specific approach would pose significant administrative and practical difficulties. Although the approach adopted in the Framework Rule does not directly allocate allowances to each category of use, the Agency anticipates that reliance on market mechanisms will achieve similar results indirectly. The Agency believes that under a system of universal allocations, divided into pre-plant and post-harvest sectors, the actual critical use will closely follow the sector breakout listed by the TEAP. These issues were addressed in previous rules and EPA is not aware of any factors that would alter the analysis performed during the development of the Framework Rule.

In developing this action, EPA did not propose to change the approach adopted in the Framework Rule for the allocation of CUAs but, in an endeavor to address Decision XIX/9(6), sought additional comment on the Agency's allocation of CUAs in the two groupings (pre-plant and post-harvest) that the Agency has employed in the past. MBIP's comment supported the continued use of the universal allocation approach characterizing it as a simple and understandable system that has proven to work well. Dow AgroSciences commented that CSAs and CUAs should be allocated specifically to each of the 15 critical use categories authorized by the Parties. The comment states that this method would ensure that all critical users have access to methyl bromide, rather than just those with the greatest ability to pay.

EPA agrees with the comments that supported the existing allocation system. EPA considered sector-specific and other allocation approaches in the proposed Framework Rule, and decided that the existing universal allocation system with pre-plant and post-harvest allowances was the most effective and least burdensome system.

H. Critical Stock Allowance Allocations

Each critical stock allowance (CSA) is equivalent to one kilogram of critical use methyl bromide. CSAs expire at the end of the control period and, as explained in the Framework Rule, are not bankable from one year to the next (69 FR 76990). CSAs are not used to produce or import methyl bromide but are privileges that enable the holder to sell a specified amount of pre-phaseout inventory for approved critical uses. A CSA is expended when the entity selling methyl bromide sells the material, or fumigation services with the material, to an approved critical user who certifies that the material is for an approved critical use. Thus the movement of pre-phaseout inventories or methyl bromide along the supply chain does not require expenditure of a CSA.

EPA proposed to allocate CSAs to the entities listed below in Table IV for the 2009 control period in the amount of 2,576,987 kg (10.1% of baseline). EPA followed its approach to determining available stocks introduced in the 2008 CUE rule and described in Section V.D.4. For the reasons discussed in Section V.D., in this action EPA is allocating 1,919,193 kg of CSAs to the entities listed in Table IV.

In 2006, the United States District Court for the District of Columbia upheld EPA's treatment of company-specific methyl bromide inventory information as confidential. *NRDC* v. *Leavitt,* 2006 WL 667327 (D.D.C. March 14, 2006). EPA's allocation of CSAs is based on each company's proportionate share of the aggregate inventory. Therefore, the documentation regarding company-specific allocation of CSAs is in the confidential portion of the rulemaking docket and the individual CSA allocations are not listed in Table IV. Following past practice, EPA will inform the listed companies of their CSA allocations in a letter following publication of the final rule.

TABLE IV—PROPOSED ALLOCATION OF CRITICAL STOCK ALLOWANCES

Company
Albemarle.
Bill Clark Pest Control, Inc.
Burnside Services, Inc.
Cardinal Professional Products.
Chemtura Corp.
Degesch America, Inc.
Helena Chemical Co.
Hendrix & Dail.
Hy Yield Bromine.
ICL–IP America.
Industrial Fumigation Company.
Pacific Ag.
Pest Fog Sales Corp.
Prosource One.
Reddick Fumigants.
Royster-Clark, Inc.
Trical Inc.
Trident Agricultural Products.
UAP Southeast (NC).
UAP Southeast (SC).
Univar.
Western Fumigation.
Total—1,919,193 kilograms.

Several companies that receive very small amounts of CSAs from EPA have contacted the Agency and requested that they be permitted to permanently retire their allowances. Some companies receive as few as 6 kg of CSAs. Due to the small allocation and because they typically do not sell critical use methyl bromide, some companies find the allocation of CSAs, and associated record-keeping and reporting requirements, to be unduly burdensome.

For the last two rounds of CUE allocation rulemakings EPA has allowed CSA holders, on a voluntary basis, to permanently relinquish their allowances through written notification to the Agency. Such companies would not receive CSA allocations and would be excluded from future allocations. During the comment period for the 2008 CUE Rule, seven companies voluntarily agreed to permanently relinquish their allowances. In the final 2008 CUE Rule, the Agency reallocated the allowances forfeited by these companies to the remaining companies on a pro-rata basis. Though no companies voluntarily relinquished their allowances this year, EPA continues to strongly encourage CSA holders to take advantage of this voluntary opportunity to retire their CSA allocations.

I. Stocks of Methyl Bromide

As discussed above and in the December 23, 2004, Framework Rule, an approved critical user may purchase methyl bromide produced or imported with CUAs as well as limited inventories of pre-phaseout methyl bromide, the combination of which

constitute the supply of ''critical use methyl bromide'' intended to meet the needs of agreed critical uses. The Framework Rule established provisions governing the sale of pre-phaseout inventories for critical uses, including the concept of CSAs and a prohibition on the sale of pre-phaseout inventories for critical uses in excess of the amount of CSAs held by the seller. It also established trading provisions that allow CUAs to be converted into CSAs. EPA has retained these provisions for the 2009 control period.

EPA believes that the refined approach for calculating available stocks that was finalized in the 2008 CUE Rule reduces the risks of methyl bromide shortages for critical uses. However, as in prior years, the Agency will continue to closely monitor CUA and CSA data. Further, as stated in the final 2006 CUE rule, safety valves continue to exist. If an inventory shortage occurs, EPA may consider various options including authorizing the conversion of a limited number of CSAs to CUAs through a rulemaking, bearing in mind the upper limit on U.S. production/import for critical uses.

The aggregate amount of pre-phaseout methyl bromide reported as being in inventory on December 31, 2007, was 6,457, 806 kg. Based on reported end-of-year data submitted by inventory owners, the aggregate inventory on December 31, 2008, was 4,271,226 kg. As explained in detail in the 2008 CUE final rule, the Agency intends to continue releasing the aggregate of methyl bromide stockpile information reported to the Agency under the reporting requirements at 40 CFR 82.13 for the end of each control period. EPA notes that if the number of competitors in the industry were to decline appreciably, EPA would revisit the question of whether the aggregate is entitled to treatment as confidential information and whether to release the aggregate without notice. EPA is not proposing to change the treatment of submitted information but welcomes information concerning the composition of the industry in this regard. The aggregate information for 2003 through 2007 is available in the docket for this rulemaking.

EPA is also correcting its assessment of the amount pre-phaseout inventory that was available on December 31, 2006, which EPA originally stated was 7,671,091 kg. EPA received late data in 2007 that it did not incorporate into the total inventory level for the year. The corrected value for the amount of pre-phaseout inventory as of December 31, 2006, is 7,941,009 kg. This change does not affect the CUA or CSA allocations in this rule, which are based on reported data rather than estimates.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order (EO) 12866 (58 FR 51735, October 4, 1993), this action is a ''significant regulatory action.'' This action is likely to result in a rule that may raise novel legal or policy issues. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under EO 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. The application, recordkeeping, and reporting requirements have already been established under previous Critical Use Exemption rulemakings and this action does not propose to change any of those existing requirements. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations at 40 CFR part 82 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. and has assigned OMB control number 2060–0482. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) A small business that is identified by the North American Industry Classification System (NAICS) Code in the Table below; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

Category	NAICS code	SIC code	NAICS small business size standard (in number of employees or millions of dollars)
Agricultural production	1112—Vegetable and Melon farming.	0171—Berry Crops	$0.75 million.
	1113—Fruit and Nut Tree Farming	0172—Grapes.	
	1114—Greenhouse, Nursery, and Floriculture Production.	0173—Tree Nuts.	
		0175—Deciduous Tree Fruits (except apple orchards and farms).	
		0179—Fruit and Tree Nuts, NEC.	
		0181—Ornamental Floriculture and Nursery Products.	
		0831—Forest Nurseries and Gathering of Forest Products.	
Storage Uses	115114—Postharvest Crop activities (except Cotton Ginning).		$7 million.
	311211—Flour Milling	2041—Flour and Other Grain Mill Products.	500 employees.
	311212—Rice Milling	2044—Rice Milling	500 employees.

Category	NAICS code	SIC code	NAICS small business size standard (in number of employees or millions of dollars)
	493110—General Warehousing and Storage.	4225—General Warehousing and Storage.	$25.5 million.
	493130—Farm Product Warehousing and Storage.	4221—Farm Product Warehousing and Storage.	$25.5 million.
Distributors and Applicators	115112—Soil Preparation, Planting and Cultivating.	0721—Crop Planting, Cultivation, and Protection.	$7 million.
Producers and Importers	325320—Pesticide and Other Agricultural Chemical Manufacturing.	2879—Pesticides and Agricultural Chemicals, NEC.	500 employees.

Agricultural producers of minor crops and entities that store agricultural commodities are categories of affected entities that contain small entities. This rule will only affect entities that applied to EPA for a de-regulatory exemption. In most cases, EPA received aggregated requests for exemptions from industry consortia. EPA asked consortia applying for critical use exemptions to describe the number and size distribution of entities their applications covered. EPA estimated that 3,218 entities petitioned EPA for critical use exemptions for the 2005 control period. EPA now estimates there to be 2,000 end users of critical use methyl bromide. Since many applicants did not provide information on the distribution of sizes of entities covered in their applications, EPA estimated that, based on the above definition, between one-fourth and one-third of the entities may be small businesses. In addition, other categories of affected entities do not contain small businesses based on the above description.

After considering the economic impacts of this rule on small entities, EPA certifies that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant *adverse* economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities.'' (5 U.S.C. 603–604). Thus, an Agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves a regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. Since this rule exempts methyl bromide for approved critical uses after the phaseout date of January 1, 2005, this is a de-regulatory action which will confer a benefit to users of methyl bromide. EPA believes the estimated de-regulatory value for users of methyl bromide is between $20 million and $30 million annually. We have therefore concluded that this rule will relieve regulatory burden for all small entities.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. The action imposes no enforceable duty on any State, local or tribal governments or the private sector. Instead, this action is deregulatory and does not impose any new requirements on any entities. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA. This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments.

E. Executive Order 13132: Federalism

Executive Order 13132, titled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' The phrase ''policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This rule is expected to primarily affect producers, suppliers, importers and exporters and users of methyl bromide. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This rule does not significantly or uniquely affect the communities of Indian tribal governments nor does it impose any enforceable duties on communities of Indian tribal governments. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order No. 13045: Protection of Children From Environmental Health and Safety Risks

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This rule does not have any effect on energy as it only relates to the production, import, and uses of critical use the agricultural fumigant methyl bromide.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law No.

104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations, because it affects the level of environmental protection equally for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. Any ozone depletion that results from this rule will impact all affected populations equally because ozone depletion is a global environmental problem with environmental and human effects that are, in general, equally distributed across geographical regions.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective April 30, 2009.

List of Subjects in 40 CFR Part 82

Environmental protection, Ozone depletion, Chemicals, Exports, Imports.

Dated: April 24, 2009.

Lisa P. Jackson,

Administrator.

■ For the reasons stated in the preamble, 40 CFR Part 82 is amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

■ 1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

■ 2. Section 82.8 is amended by revising the table in paragraph (c)(1) and paragraph (c)(2) to read as follows:

§ 82.8 Grant of essential use allowances and critical use allowances.

* * * * *

(c) * * *

(1) * * *

Company	2009 critical use allowances for pre-plant uses* (kilograms)	2009 critical use allowances for post-harvest uses* (kilograms)
Great Lakes Chemical Corp. A Chemtura Company	1,249,703	133,249
Albemarle Corp	513,906	54,795
ICL–IP America	283,995	30,281
TriCal, Inc	8,843	943
Total**	2,056,448	219,267

* For production or import of Class I, Group VI controlled substance exclusively for the Pre-Plant or Post-Harvest uses specified in appendix L to this subpart.

** Due to rounding, numbers do not add exactly.

(2) Allocated critical stock allowances granted for specified control period. The following companies are allocated critical stock allowances for 2009 on a pro-rata basis in relation to the inventory held by each.

Company
Albemarle.
Bill Clark Pest Control, Inc.
Burnside Services, Inc.
Cardinal Professional Products.
Chemtura Corp.
Degesch America, Inc.
Helena Chemical Co.
Hendrix & Dail.
Hy Yield Bromine.
ICL–IP America.
Industrial Fumigation Company.
Pacific Ag.
Pest Fog Sales Corp.
Prosource One.
Reddick Fumigants.
Royster-Clark, Inc.
Trical Inc.
Trident Agricultural Products.
UAP Southeast (NC).
UAP Southeast (SC).
Univar.
Western Fumigation.
Total—1,919,193 kilograms.

■ 3. Appendix L to Subpart A is revised to read as follows:

APPENDIX L TO PART 82 SUBPART A—APPROVED CRITICAL USES AND LIMITING CRITICAL CONDITIONS FOR THOSE USES FOR THE 2009 CONTROL PERIOD

Approved critical uses Column A	Approved critical user and location of use Column B	Limiting critical conditions that exist, or that the approved critical user reasonably expects could arise without methyl bromide fumigation: Column C
	PRE-PLANT USES	
Cucurbits	(a) Growers in Delaware, Maryland, and Michigan.	Moderate to severe soilborne disease infestation. A need for methyl bromide for research purposes.
	(b) Growers in Georgia and Southeastern U.S. limited to growing locations in Alabama, Arkansas, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe soilborne disease infestation. Moderate to severe root knot nematode infestation. A need for methyl bromide for research purposes.
Eggplant	(a) Florida growers	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe soilborne disease infestation. Restrictions on alternatives due to karst topographical features and soils not supporting seepage irrigation. A need for methyl bromide for research purposes.
	(b) Georgia growers	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe nematode infestation. Moderate to severe pythium collar, crown and root rot. Moderate to severe southern blight infestation. Restrictions on alternatives due to karst topographical features. A need for methyl bromide for research purposes.
	(c) Michigan growers	Moderate to severe soilborne disease infestation. A need for methyl bromide for research purposes.
Forest Nursery Seedlings.	(a) Growers in Alabama, Arkansas, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia.	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe soilborne disease infestation. Moderate to severe nematode infestation.
	(b) International Paper and its subsidiaries limited to growing locations in Alabama, Arkansas, Georgia, South Carolina, and Texas.	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe soilborne disease infestation.
	(c) Government-owned seedling nurseries in Illinois, Indiana, Kentucky, Maryland, Missouri, New Jersey, Ohio, Pennsylvania, West Virginia, and Wisconsin.	Moderate to severe weed infestation including purple and yellow nutsedge infestation. Moderate to severe Canada thistle infestation. Moderate to severe nematode infestation. Moderate to severe soilborne disease infestation.
	(d) Weyerhaeuser Company and its subsidiaries limited to growing locations in Alabama, Arkansas, North Carolina, and South Carolina.	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe soilborne disease infestation. Moderate to severe nematode or worm infestation.
	(e) Weyerhaeuser Company and its subsidiaries limited to growing locations in Oregon and Washington.	Moderate to severe yellow nutsedge infestation. Moderate to severe soilborne disease infestation.
	(f) Michigan growers	Moderate to severe soilborne disease infestation. Moderate to severe Canada thistle infestation. Moderate to severe nutsedge infestation. Moderate to severe nematode infestation
Orchard Nursery Seedlings.	(a) Members of the Western Raspberry Nursery Consortium limited to growing locations in Washington, and members of the California Association of Nursery and Garden Centers representing Deciduous Tree Fruit Growers.	Moderate to severe nematode infestation. Medium to heavy clay soils. Local township limits prohibiting 1,3-dichloropropene. A need for methyl bromide for research purposes.
	(b) California rose nurseries	Moderate to severe nematode infestation. Local township limits prohibiting 1,3-dichloropropene. A need for methyl bromide for research purposes.
Orchard Replant	(a) California stone fruit, table and raisin grape, wine grape, walnut, and almond growers.	Moderate to severe nematode infestation. Moderate to severe soilborne disease infestation. Replanted orchard soils to prevent orchard replant disease. Medium to heavy soils. Local township limits prohibiting 1,3-dichloropropene.
Ornamentals	(a) California growers	Moderate to severe soilborne disease infestation. Moderate to severe nematode infestation. Local township limits prohibiting 1,3-dichloropropene. A need for methyl bromide for research purposes.
	(b) Florida growers	Moderate to severe weed infestation. Moderate to severe soilborne disease infestation. Moderate to severe nematode infestation. Restrictions on alternatives due to karst topographical features and soils not supporting seepage irrigation.

Approved critical uses Column A	Approved critical user and location of use Column B	Limiting critical conditions that exist, or that the approved critical user reasonably expects could arise without methyl bromide fumigation: Column C
		A need for methyl bromide for research purposes.
	(c) Michigan herbaceous perennial growers ...	Moderate to severe nematode infestation. Moderate to severe soilborne disease infestation. Moderate to severe yellow nutsedge and other weed infestation.
Peppers	(a) Alabama, Arkansas, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia growers.	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe nematode infestation. Moderate to severe pythium root, collar, crown and root rots. A need for methyl bromide for research purposes.
	(b) Florida growers	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe soilborne disease infestation. Moderate to severe nematode infestation. Restrictions on alternatives due to karst topographical features and soils not supporting seepage irrigation. A need for methyl bromide for research purposes.
	(c) Georgia growers	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe nematode infestation, or moderate to severe pythium root and collar rots. Moderate to severe southern blight infestation, crown or root rot. Restrictions on alternatives due to karst topographical features. A need for methyl bromide for research purposes.
	(d) Michigan growers	Moderate to severe soilborne disease infestation. A need for methyl bromide for research purposes.
Strawberry Fruit	(a) California growers	Moderate to severe black root rot or crown rot. Moderate to severe yellow or purple nutsedge infestation. Moderate to severe nematode infestation. Local township limits prohibiting 1,3-dichloropropene. Time to transition to an alternative. A need for methyl bromide for research purposes.
	(b) Florida growers	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe nematode infestation. Moderate to severe soilborne disease infestation. Carolina geranium or cut-leaf evening primrose infestation. Restrictions on alternatives due to karst topographical features and soils not supporting seepage irrigation. A need for methyl bromide for research purposes.
	(c) Alabama, Arkansas, Georgia, Illinois, Kentucky, Louisiana, Maryland, Mississippi, Missouri, New Jersey, North Carolina, Ohio, South Carolina, Tennessee, and Virginia growers.	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe nematode infestation. Moderate to severe black root and crown rot. A need for methyl bromide for research purposes.
Strawberry Nurseries	(a) California growers	Moderate to severe soilborne disease infestation. Moderate to severe yellow or purple nutsedge infestation. Moderate to severe nematode infestation. A need for methyl bromide for research purposes.
	(b) North Carolina and Tennessee growers	Moderate to severe black root rot. Moderate to severe root-knot nematode infestation. Moderate to severe yellow and purple nutsedge infestation. A need for methyl bromide for research purposes.
Sweet Potato Slips	(a) California growers	Local township limits prohibiting 1,3-dichloropropene.
Tomatoes	(a) Michigan growers	Moderate to severe soilborne disease infestation. Moderate to severe fungal pathogen infestation. A need for methyl bromide for research purposes.
	(b) Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia growers.	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe soilborne disease infestation. Moderate to severe nematode infestation. Restrictions on alternatives due to karst topographical features and, in Florida, soils not supporting seepage irrigation. A need for methyl bromide for research purposes.
	(c) Maryland growers	Moderate to severe fungal pathogen infestation.
POST-HARVEST USES		
Food Processing	(a) Rice millers in the U.S. who are members of the USA Rice Millers Association.	Moderate to severe beetle, weevil, or moth infestation. Presence of sensitive electronic equipment subject to corrosion. Time to transition to an alternative.
	(b) Pet food manufacturing facilities in the U.S. who are members of the Pet Food Institute.	Moderate to severe beetle, moth, or cockroach infestation. Presence of sensitive electronic equipment subject to corrosion. Time to transition to an alternative.
	(c) Bakeries in the U.S	Presence of sensitive electronic equipment subject to corrosion. Time to transition to an alternative.

Approved critical uses Column A	Approved critical user and location of use Column B	Limiting critical conditions that exist, or that the approved critical user reasonably expects could arise without methyl bromide fumigation: Column C
	(d) Members of the North American Millers' Association in the U.S.	Moderate to severe beetle infestation. Presence of sensitive electronic equipment subject to corrosion. Time to transition to an alternative.
	(e) Members of the National Pest Management Association treating processed food, cheese, herbs and spices, and spaces and equipment in associated processing and storage facilities.	Moderate to severe beetle or moth infestation. Presence of sensitive electronic equipment subject to corrosion. Time to transition to an alternative.
Commodities	(a) California entities storing walnuts, beans, dried plums, figs, raisins, and dates (in Riverside county only) in California.	Rapid fumigation required to meet a critical market window, such as during the holiday season. Export to countries which do not allow the use of sulfuryl fluoride. A need for methyl bromide for research purposes.
Dry Cured Pork Products.	(a) Members of the National Country Ham Association and the Association of Meat Processors, Nahunta Pork Center (North Carolina), and Gwaltney and Smithfield Inc.	Red legged ham beetle infestation. Cheese/ham skipper infestation. Dermested beetle infestation. Ham mite infestation.

[FR Doc. E9–9966 Filed 4–29–09; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 09–853; MB Docket No. 08–244; RM–11507]

Television Broadcasting Services; Scranton, PA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission grants a petition for rulemaking filed by MPS MEDIA of Scranton License, LLC (''MPS Media''), the licensee of pre-transition station WSBS–DT, DTV channel 31, Scranton, Pennsylvania. MPS Media has been assigned DTV channel 38 for post-transition use and now requests the substitution of its pre-transition DTV channel 31 for post-transition DTV channel 38 at Scranton.

DATES: This rule is effective April 30, 2009.

FOR FURTHER INFORMATION CONTACT: David J. Brown, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 08–244, adopted April 16, 2009, and released April 17, 2009. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via e-mail *www.BCPIWEB.com.* To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Pennsylvania, is amended by adding DTV channel 31 and removing DTV channel 38 at Scranton.

Federal Communications Commission.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau.

[FR Doc. E9–9827 Filed 4–29–09; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 09–872; MB Docket No. 08–252; RM–11509]

Television Broadcasting Services; Cadillac, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission grants a petition for rulemaking filed by Cadillac Telecasting Co. (''CTC''), the licensee of WFQX–TV, analog channel 33, and WFQX–DT, DTV channel 47, Cadillac, Michigan, requesting the substitution of DTV channel 32 for post-transition DTV channel 47 at Cadillac.

DATES: This rule is effective April 30, 2009.

FOR FURTHER INFORMATION CONTACT: Joyce L. Bernstein, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 08–252, adopted April 20, 2009, and released April 21, 2009. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC, 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/).* (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via e-mail *www.BCPIWEB.com.* To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Michigan, is amended by adding DTV channel 32 and removing DTV channel 47 at Cadillac.

Federal Communications Commission.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau.

[FR Doc. E9–9975 Filed 4–29–09; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 74, No. 82
Thursday, April 30, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0399; Directorate Identifier 2008–NM–226–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2C10 (Regional Jet Series 700, 701 & 702), CL–600–2D15 (Regional Jet Series 705), and CL–600–2D24 (Regional Jet Series 900) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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

> A change in dimensions of the fuse blocks in the Auxiliary Power Unit (APU) Start Contactor Assembly (ASCA) box assembly can cause an incorrect interface between the bus bars and fuses. This condition can result in an increase in temperature, which could damage the ASCA box and/or compromise the availability of battery bus supply.

The unsafe condition could result in the ignition of a fire in the ASCA box. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by June 1, 2009.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; e-mail *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.*

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Wing Chan, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7311; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2009–0399; Directorate Identifier 2008–NM–226–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2008–34, dated December 2, 2008 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> A change in dimensions of the fuse blocks in the Auxiliary Power Unit (APU) Start Contactor Assembly (ASCA) box assembly can cause an incorrect interface between the bus bars and fuses. This condition can result in an increase in temperature, which could damage the ASCA box and/or compromise the availability of battery bus supply.

The unsafe condition could result in the ignition of a fire in the ASCA box. The required actions include inspecting the ASCA boxes to determine the part number; and for certain ASCA boxes, doing a detailed inspection of the fuse block date code, and replacement of the fuse block with new hardware if necessary. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Bombardier has issued Service Bulletin 670BA–49–012, Revision A, dated August 28, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

develop on other products of the same type design.

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 108 products of U.S. registry. We also estimate that it would take about 5 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $43,200, or $400 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier (Formerly Canadair): Docket No. FAA–2009–0399; Directorate Identifier 2008–NM–226–AD.

Comments Due Date

(a) We must receive comments by June 1, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the airplanes, certificated in any category, identified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Bombardier Model CL–600–2C10 (Regional Jet Series 700, 701 & 702), serial numbers 10112 through 10199, and 10201 through 10206.

(2) Bombardier Model CL–600–2D15 (Regional Jet Series 705) and CL–600–2D24 (Regional Jet Series 900), serial numbers 15007 through 15026, 15030, and 15031.

Subject

(d) Air Transport Association (ATA) of America Code 49: Airborne Auxiliary Power.

Reason

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

A change in dimensions of the fuse blocks in the Auxiliary Power Unit (APU) Start Contactor Assembly (ASCA) box assembly can cause an incorrect interface between the bus bars and fuses. This condition can result in an increase in temperature, which could damage the ASCA box and/or compromise the availability of battery bus supply.

The unsafe condition could result in the ignition of a fire in the ASCA box. The required actions include inspecting the ASCA boxes to determine the part number; and for certain ASCA boxes, doing a detailed inspection of the fuse block date code, and replacement of the fuse block with new hardware if necessary.

Actions and Compliance

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

(1) Within 1,500 flight hours after the effective date of this AD, perform an inspection of the ASCA box to determine the part number and, for ASCA boxes having part number BA670–53328–1 or BA670–53328–951, perform a detailed inspection of the fuse block date code, in accordance with Bombardier Service Bulletin 670BA–49–012, Revision A, dated August 28, 2008. Before further flight, replace all fuse blocks that have a date code between K23 (0323) through M08 (0508) inclusive, in accordance with Bombardier Service Bulletin 670BA–49–012, Revision A, dated August 28, 2008.

(2) Inspections and replacement actions are also acceptable for compliance with the requirements of paragraph (f)(1) of this AD, if done before the effective date of this AD in accordance with Bombardier Service Bulletin 670BA–49–012, dated June 28, 2007.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Systems and Flight Test Branch, ANE–172, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Wing Chan, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7311; fax (516) 794–5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office.

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

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

Related Information

(h) Refer to MCAI Transport Canada Civil Aviation Airworthiness Directive CF–2008–34, dated December 2, 2008; and Bombardier Service Bulletin 670BA–49–012, Revision A, dated August 28, 2008; for related information.

Issued in Renton, Washington, on April 22, 2009.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–9866 Filed 4–29–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–29060; Directorate Identifier 2007–NE–34–AD]

RIN 2120–AA64

Airworthiness Directives; International Aero Engines (IAE)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for IAE V2500–A1, V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, and V2533–A5 turbofan engines. This proposed AD would require a onetime inspection of certain vortex reducers for cracks, and replacing the reducer and high-pressure (HP) compressor stage 3–8 drum if the reducer is cracked. This proposed AD results from reports of fractured vortex reducers found at shop visits. We are proposing this AD to inspect for cracks in the vortex reducer. Cracks in the vortex reducer could cause an uncontained failure of the HP compressor stage 3–8 drum, which could result in damage to the airplane.

DATES: We must receive any comments on this proposed AD by June 29, 2009.

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

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

Contact International Aero Engines, 400 Main St., East Hartford, CT 06108; telephone (860) 565–5515, fax (860) 565–0600 for a copy of the service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Kevin Dickert, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *kevin_dickert@faa.gov;* telephone (781) 238–7117; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send us any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2007–29060; Directorate Identifier 2007–NE–34–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed 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.

Discussion

International Aero Engines has informed us that they received reports of two fractured vortex reducers found at engine shop visits. Those findings prompted IAE to perform stress analyses and lifing work on both the vortex reducer and the HP compressor stage 3–8 drum. That work showed that a cracked vortex reducer leads to an increase in stress levels at the bolt holes of the HP compressor stage 3–8 drum. For certain stage 3–8 drums, the stress increase at the stage 8 bolt holes could lead to a reduced drum life depending on the drum life when the vortex reducer was cracked and the thrust rating of the engine. Stage 3–8 drums, part numbers (P/Ns) 6A5467, 6A6473, and 6A7401, could fail from the increased loading caused by a cracked vortex reducer. This condition, if not corrected, could cause an uncontained failure of the HP compressor stage 3–8 drum, which could result in damage to the airplane.

Relevant Service Information

We have reviewed and approved the technical contents of IAE Service Bulletin (SB) V2500–ENG–72–0510, Revision 1, dated October 8, 2007, that describes procedures for inspecting the vortex reducer for cracks.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. We are proposing this AD, which would require a onetime fluorescent penetrant inspection of certain vortex reducers for cracks.

Costs of Compliance

We estimate that this proposed AD would affect no engines installed on airplanes of U.S. registry. Based on this, we estimate there is no cost to U.S. operators for the proposed AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that the proposed 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. Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. 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.

The Proposed Amendment

Under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

International Aero Engines: Docket No. FAA–2007–29060; Directorate Identifier 2007–NE–34–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by June 29, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to International Aero Engines (IAE) V2500–A1, V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, and V2533–A5 turbofan engines with high pressure (HP) compressor stage 3–8 drums, part numbers (P/Ns) 6A5467, 6A6473, and 6A7401, installed. These engines are installed on, but not limited to, Airbus A319, A320, and A321 series airplanes and Boeing MD–90 airplanes.

Unsafe Condition

(d) This AD results from reports of fractured vortex reducers found at shop visits. We are issuing this AD to inspect for cracks in the vortex reducer. Cracks in the vortex reducer could cause an uncontained failure of the HP compressor stage 3–8 drum, which could result in damage to the airplane.

Compliance

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

Onetime Fluorescent Penetrant Inspection

(f) Fluorescent penetrant inspect the vortex reducer for cracks when the HPC stage 3–8 drum has between 3,000 and 13,500 cycles since new (CSN) if all of the following conditions also apply:

(1) The HPC stage 3–8 drum has ever operated in an engine at the V2527E–A5, V2527M–A5, V2528–D5, V2530–A5 thrust ratings,

(2) The vortex reducer had cycles accumulated on it when mated with the HPC stage 3–8 drum, and

(3) The HPC stage 3–8 drum had fewer than 3,000 CSN when mated to the vortex reducer.

(g) If the vortex reducer is cracked, remove both the vortex reducer and the HPC stage 3–8 drum from service.

(h) After the effective date of this AD, do not return to service any HPC stage 3–8 drum that was removed as specified in paragraph (g) of this AD.

Alternative Methods of Compliance

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

Related Information

(j) Contact Kevin Dickert, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *kevin_dickert@faa.gov;* telephone (781) 238–7117; fax (781) 238–7199, for more information about this AD.

Issued in Burlington, Massachusetts, on April 27, 2009.

Peter A. White,

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

[FR Doc. E9–9965 Filed 4–29–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0398; Directorate Identifier 2008–NM–193–AD]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 and Avro 146–RJ Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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

> There have been a number of incidents where wing-to-fuselage or MLG [main landing gear] door fairing panels have detached from the aircraft during flight. Subsequent inspection revealed the loss of the fairing panels to be due to failure of certain steel grommets * * *. A detaching panel could strike the aircraft during flight, causing damage. In addition, a detaching panel could become attached to the structure or control surfaces, resulting in reduced control of the aircraft.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by June 1, 2009.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE.,

Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact BAE Systems Regional Aircraft, 13850 McLearen Road, Herndon, Virginia 20171; telephone 703–736–1080; e-mail *raebusiness@baesystems.com;* Internet *http://www.baesystems.com/Businesses/RegionalAircraft/index.htm.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2009–0398; Directorate Identifier 2008–NM–193–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2008–0180, dated September 30, 2008 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> There have been a number of incidents where wing-to-fuselage or MLG [main landing gear] door fairing panels have detached from the aircraft during flight. Subsequent inspection revealed the loss of the fairing panels to be due to failure of certain steel grommets, (P/N) [part number] SL5183 and HC535H0312, through which the attachment bolts are inserted. These failures may have been caused by improper installation of the grommets or damage resulting from maintenance procedures relating to paint stripping and repainting, allowing air loads to pull the panel through the grommet. A detaching panel could strike the aircraft during flight, causing damage. In addition, a detaching panel could become attached to the structure or control surfaces, resulting in reduced control of the aircraft.
>
> Following the application of BAE Systems (Operations) Ltd ISB 53–202 at Revision 1 to the first few, it has been discovered that removal of existing grommets P/N SL5183 and HC535H0312 may result in localised damage to the aluminum foil membrane attached to the inner surface of some fairing panels. BAE Systems (Operations) Ltd has therefore issued additional instructions in All Operators Message (AOM) 08–015V, including bonding checks and detailed procedures for applying an electro-conductive paste at each SL5185 grommet location in order to bridge any gap between grommet and the inner aluminum foil. The next revision of BAE Systems (Operations) Ltd ISB 53–202 will include the technical content of AOM 08–015V.
>
> For the reasons described above, this EASA AD requires repetitive inspections of the wing-to-fuselage & MLG door fairing panel grommets and, when damage is detected, the accomplishment of corrective actions.

Corrective actions include replacing damaged grommets with new P/N SL5185 grommets; or doing a temporary repair, which delays the replacement. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

BAE Systems (Operations) Limited has issued Inspection Service Bulletin ISB.53–202, Revision 3, dated December 10, 2008. The actions described in the service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 1 product of U.S. registry. We also estimate that it would take about 14 work hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $1,120.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Docket No. FAA–2009–0398; Directorate Identifier 2008–NM–193–AD.

Comments Due Date

(a) We must receive comments by June 1, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to BAE Systems (Operations) Limited Model BAe 146–100A, –200A, and –300A series airplanes; and Model Avro 146–RJ70A, 146–RJ85A, and 146–RJ100A airplanes; certificated in any category, all models, all serial numbers, that have embodied modification HCM00633E or HCM00934A.

Subject

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

Reason

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

There have been a number of incidents where wing-to-fuselage or MLG [main landing gear] door fairing panels have detached from the aircraft during flight. Subsequent inspection revealed the loss of the fairing panels to be due to failure of certain steel grommets, (P/N) [part number] SL5183 and HC535H0312, through which the attachment bolts are inserted. These failures may have been caused by improper installation of the grommets or damage resulting from maintenance procedures relating to paint stripping and repainting, allowing air loads to pull the panel through the grommet. A detaching panel could strike the aircraft during flight, causing damage. In addition, a detaching panel could become attached to the structure or control surfaces, resulting in reduced control of the aircraft.

Following the application of BAE Systems (Operations) Ltd ISB 53–202 at Revision 1 to the first few, it has been discovered that removal of existing grommets P/N SL5183 and HC535H0312 may result in localised damage to the aluminum foil membrane attached to the inner surface of some fairing panels. BAE Systems (Operations) Ltd has therefore issued additional instructions in All Operators Message (AOM) 08–015V, including bonding checks and detailed procedures for applying an electro-conductive paste at each SL5185 grommet location in order to bridge any gap between grommet and the inner aluminum foil. The next revision of BAE Systems (Operations) Ltd ISB 53–202 will include the technical content of AOM 08–015V.

For the reasons described above, this EASA AD requires repetitive inspections of the wing-to-fuselage & MLG door fairing panel grommets and, when damage is detected, the accomplishment of corrective actions.

Corrective actions include replacing damaged grommets with new P/N SL5185 grommets; or doing a temporary repair, which delays the replacement.

Actions and Compliance

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

(1) Within 4,000 flight cycles or 24 months after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 8,000 flight cycles, conduct a visual inspection of the steel grommets on the fairing panels in accordance with paragraph 2.C. of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–202, Revision 3, dated December 10, 2008.

(2) If damage is found during any inspection required by paragraph (f)(1) of this AD, before further flight, do the actions specified in paragraph (f)(2)(i) or (f)(2)(ii) of this AD.

(i) Replace the grommets with new P/N SL5185 grommets in accordance with paragraph 2.C. of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–202, Revision 3, dated December 10, 2008, and concurrently conduct a bonding inspection at each grommet location in accordance with paragraph 2.C. of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–202, Revision 3, dated December 10, 2008. If unsatisfactory bonding is detected, before further flight, apply electro-conductive paste in accordance with Appendix 4 of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–202, Revision 3, dated December 10, 2008.

(ii) Do a temporary repair in accordance with Appendix 3 of the BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–202, Revision 3, dated December 10, 2008, or an approved BAE Systems (Operations) Limited temporary repair scheme.

(3) For airplanes on which a temporary repair specified in paragraph (f)(2)(ii) of this AD has been done: Within 8,000 flight cycles after doing the temporary repair, replace any temporary repair grommets with new P/N SL5185 grommets in accordance with paragraph 2.C. of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–202, Revision 3, dated December 10, 2008, and concurrently conduct a bonding inspection at each grommet location in accordance with paragraph 2.C. of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–202, Revision 3, dated December 10, 2008. If unsatisfactory bonding is detected, before further flight, apply electro-conductive paste in accordance with Appendix 4 of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–202, Revision 3, dated December 10, 2008.

(4) For airplanes on which any new P/N SL5185 grommets have been installed without having a bonding inspection prior to the effective date of this AD: Before or during the next scheduled repetitive inspection in accordance with paragraph (f)(1) of this AD, conduct a bonding inspection in accordance with paragraph 2.C of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–202, Revision 3, dated December 10, 2008. If unsatisfactory bonding is detected, before further flight, apply electro-conductive paste in accordance with Appendix 4 of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–202, Revision 3, dated December 10, 2008.

(5) Replacement of all existing grommets with new P/N SL5185 grommets on all panels, including the corresponding bonding inspections and the application of the electro-conductive paste as applicable, in accordance with BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–202, Revision 3, dated December 10, 2008, terminates the repetitive inspections required by paragraph (f)(1) of this AD.

(6) Visual inspections, temporary repairs, and replacements of the grommets are also acceptable for compliance with the corresponding requirements of paragraphs (f)(1), (f)(2)(i), (f)(2)(ii), (f)(3), and (f)(5) of this AD if done before the effective date of this AD in accordance with BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–202, Revision 1, dated June 4, 2008.

(7) Visual inspections, temporary repairs, replacements of the grommets, bonding inspections, and applications of conductive paste are also acceptable for compliance with the corresponding requirements of paragraphs (f)(1), (f)(2)(i), (f)(3), (f)(4), and (f)(5) of this AD if done before the effective date of this AD in accordance with BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–202, Revision 2, dated October 24, 2008.

(8) Bonding inspections and applications of conductive paste are also acceptable for compliance with the corresponding requirement of paragraphs (f)(2)(i), (f)(3), (f)(4), and (f)(5) of this AD if done before the effective date of this AD in accordance with BAE Systems (Operations) Limited All Operator Message 08–015V, Issue 1, dated August 22, 2008.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1175; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office.

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2008–0180, dated September 30, 2008; and BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–202, Revision 3, dated December 10, 2008; for related information.

Issued in Renton, Washington, on April 22, 2009.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–9865 Filed 4–29–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0397; Directorate Identifier 2008–NM–023–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2–1C, B2–203, B2K–3C, B4–103, B4–203, and B4–2C Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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

An operator has reported the loss of a centre flap inner tab on an in-service A300 aircraft. The centre flap inner tab detached during approach to an airport. A similar event was reported several years ago on a pre-mod 04770 aircraft. * * *

* * * Investigations led by the manufacturer revealed that the centre hinge bracket developed a fatigue crack causing complete failure of the bracket. The tab rotated causing failure of the inboard link followed by the failure of the outboard link.

[D]etachment of a centre flap inner tab * * * could be a potential risk to persons on [the] ground * * *.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by June 1, 2009.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Airbus SAS—EAW (Airworthiness Office), 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; e-mail *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2009–0397; Directorate Identifier 2008–NM–023–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued Airworthiness Directive 2007–0299R2, dated October 28, 2008 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

An operator has reported the loss of a centre flap inner tab on an in-service A300 aircraft. The centre flap inner tab detached during approach to an airport. A similar event was reported several years ago on a pre-mod 04770 aircraft. Previous failure at the aft lug of the centre brackets led to the issuance of Airbus Service Bulletin A300–57–0205.

In the most recent case, the aircraft had been modified in accordance with Airbus Service Bulletin A300–57–0205 (Airbus modification No. 04770). Investigations led by the manufacturer revealed that the centre hinge bracket developed a fatigue crack causing complete failure of the bracket. The tab rotated causing failure of the inboard link followed by the failure of the outboard link.

To avoid a detachment of a centre flap inner tab, which could be a potential risk to persons on [the] ground, this AD requires a repetitive [high frequency eddy current] inspection of the centre flap inner tab hinge bracket and replacement of the bracket when cracks are detected * * * [and] reporting of inspection results to the TC holder [and provides] an optional terminating action. * * *

* * * * *

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

Relevant Service Information

Airbus has issued Mandatory Service Bulletin A300–57–0250, Revision 01, including Appendix 1 and Reporting Sheet, dated September 29, 2008; and Airbus Service Bulletin A300–57–0252, dated August 27, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 22 products of U.S. registry. We also estimate that it would take about 55 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $96,800, or $4,400 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2009–0397; Directorate Identifier 2008–NM–023–AD.

Comments Due Date

(a) We must receive comments by June 1, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A300 B2–1C, B2–203, B2K–3C, B4–103, B4–203, and B4–2C airplanes, certificated in any category, all serial numbers, except airplanes which have been modified in accordance with Airbus Service Bulletin A300–57–0252 (Airbus Modification 13400).

Subject

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

Reason

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

An operator has reported the loss of a centre flap inner tab on an in-service A300 aircraft. The centre flap inner tab detached during approach to an airport. A similar event was reported several years ago on a pre-mod 04770 aircraft. Previous failure at the aft lug of the centre brackets led to the issuance of Airbus Service Bulletin A300–57–0205.

In the most recent case, the aircraft had been modified in accordance with Airbus Service Bulletin A300–57–0205 (Airbus modification No. 04770). Investigations led by the manufacturer revealed that the centre hinge bracket developed a fatigue crack causing complete failure of the bracket. The tab rotated causing failure of the inboard link followed by the failure of the outboard link.

To avoid a detachment of a centre flap inner tab, which could be a potential risk to persons on [the] ground, this AD requires a repetitive [high frequency eddy current] inspection of the centre flap inner tab hinge bracket and replacement of the bracket when cracks are detected * * * [and] reporting of inspection results to the TC holder [and provides] an optional terminating action. * * *

* * * * *

Actions and Compliance

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

(1) At the times specified in Table 1 or Table 2 of this AD, as applicable, perform a high frequency eddy current inspection to detect fatigue cracks of the center hinge bracket of the center flap inner tab (on both wings), in accordance with Airbus Mandatory Service Bulletin A300–57–0250, Revision 01, dated September 29, 2008. If no cracking is found, repeat the inspection thereafter at intervals not to exceed 850 flight cycles.

TABLE 1—AIRPLANES ON WHICH AIRBUS SERVICE BULLETIN A300–57–0205 HAS NOT BEEN DONE

Flight cycles accumulated since first flight as of the effective date of this AD	Compliance time
Less than 6,000 flight cycles	Prior to accumulating 6,000 flight cycles since first flight or within 90 days after the effective date of this AD, whichever occurs later.
6,000 flight cycles or more, but less than 12,000 flight cycles	Within 850 flight cycles after the effective date of this AD.
12,000 flight cycles or more	Within 500 flight cycles after the effective date of this AD.

TABLE 2—AIRPLANES ON WHICH AIRBUS SERVICE BULLETIN A300–57–0205 HAS BEEN DONE

Flight cycles accumulated since Airbus Service Bulletin A300–57–0205 modification as of the effective date of this AD	Compliance time
Less than 6,000 flight cycles	Prior to accumulating 6,000 flight cycles since Airbus Service Bulletin A300–57–0205 modification or within 90 days after the effective date of this AD, whichever occurs later.
6,000 flight cycles or more, but less than 12,000 flight cycles	Within 850 flight cycles after the effective date of this AD.
12,000 flight cycles or more	Within 500 flight cycles after the effective date of this AD.

(2) If any crack is detected during any inspection required by this AD, before further flight, replace the center hinge bracket in accordance with Airbus Mandatory Service Bulletin A300–57–0250, Revision 01, dated September 29, 2008. Within 6,000 flight cycles after replacing the center hinge bracket, do the inspection required by paragraph (f)(1) of this AD, and if no cracking is found, repeat the inspection thereafter at intervals not to exceed 850 flight cycles.

(3) Modifying the inboard tab of the center flaps in accordance with Airbus Service Bulletin A300–57–0252, dated August 27, 2008, terminates the requirements of this AD.

(4) Actions accomplished before the effective date of this AD in accordance with Airbus Mandatory Service Bulletin A300–57–0250, dated November 2, 2007, are considered acceptable for compliance with the corresponding action specified in this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–2125; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office.

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

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

Related Information

(h) Refer to MCAI Airworthiness Directive 2007–0299R2, dated October 28, 2008; Airbus Mandatory Service Bulletin A300–57–0250, Revision 01, dated September 29, 2008; and Airbus Service Bulletin A300–57–0252, dated August 27, 2008; for related information.

Issued in Renton, Washington, on April 22, 2009.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–9864 Filed 4–29–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0283; Airspace Docket No. 09–ASW–8]

Proposed Establishment of Class D Airspace; Fort Worth, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class D airspace at Fort Worth Spinks Airport, Fort Worth, TX. Establishment of an air traffic control tower at Fort Worth Spinks Airport has made this action necessary for the safety and management of Instrument Flight Rules (IFR) aircraft operations at Fort Worth Spinks Airport.

DATES: 0901 UTC. Comments must be received on or before June 15, 2009.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2009–0283/Airspace Docket No. 09–ASW–8, at the beginning of your comments. You may also submit comments on the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd, Fort Worth, TX 76193–0530; telephone: (817) 321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2009–0283/Airspace Docket No. 09–ASW–8.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration (FAA), Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by establishing Class D airspace for IFR operations at Fort Worth Spinks Airport, Fort Worth, TX. The area would be depicted on appropriate aeronautical charts.

Class D airspace areas are published in Paragraph 5000 of FAA Order 7400.9S, dated October 3, 2008, and effective October 31, 2008, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish controlled airspace at Fort Worth Spinks Airport, Fort Worth, TX.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9S, Airspace Designations and Reporting Points, dated October 3, 2008, and effective October 31, 2008, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASW TX D Fort Worth Spinks Airport, TX [New]

Fort Worth Spinks Airport, TX
(Lat. 32°33′55″ N., long. 97°18′29″ W.)

That airspace extending upward from the surface up to but not including 3,000 feet MSL within a 4.1-mile radius of Fort Worth Spinks Airport, and within 1 mile each side of the 173° bearing from the airport extending from the 4.1-mile radius to 4.8 miles south of the airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Fort Worth, TX on April 22, 2009.

Roger M. Trevino,

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

[FR Doc. E9–9982 Filed 4–29–09; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 455

[Project No. P087604]

Used Motor Vehicle Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Reopening of comment period.

SUMMARY: On July 21, 2008, the Federal Trade Commission (''FTC'' or ''Commission'') published a **Federal Register** notice soliciting public comments in connection with its review of the Used Motor Vehicle Trade Regulation Rule (''Used Car Rule'' or ''Rule'').[1] The notice stated that comments must be received by September 19, 2008. The Commission subsequently extended the time within which to submit comments until November 19, 2008.[2] On March 17, 2009, the Commission received supplemental comments from the National Automobile Dealers Association and the National Independent Dealers Association responding to comments made by other interested parties during the comment period. In response to those comments and to provide all interested parties with the same opportunity to comment, the Commission has decided to reopen the comment period for forty-five days.

DATES: Comments addressing the Used Car Rule must be received on or before June 15, 2009.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to ''Used Car Regulatory Review, Matter No. P087604'' to facilitate the organization of comments. Please note that your comment—including your name and your state—will be placed on the public record of this proceeding, including on the publicly accessible FTC Website, at (*http://www.ftc.gov/os/publiccomments.shtm*).

Because comments will be made public, they should not include any sensitive personal information, such as an individual's Social Security Number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any ''[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential. . . .,'' as provided in Section 6(f) of the Federal Trade Commission Act (''FTC Act''), 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c).[3]

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following weblink: (*http://secure.commentworks.com/ftc-UsedCarRuleReopen*) (and following the instructions on the web-based form). To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink (*http://secure.commentworks.com/ftc-UsedCarRuleReopen*). If this Notice appears at (*http://www.regulations.gov/search/index.jsp*), you may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC website at (*http://www.ftc.gov/opa/2008/07/ucr.shtm*) to read the **Federal Register** notice announcing the request for public comments and the news release describing it.

A comment filed in paper form should include the ''Used Car Regulatory Review, Matter No. P087604'' reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H–135 (Annex H), 600 Pennsylvania Avenue, NW, Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC Website, to the extent practicable, at (*http://www.ftc.gov/os/publiccomments.shtm*). As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at (*http://www.ftc.gov/ftc/privacy.shtm*).

FOR FURTHER INFORMATION CONTACT: John C. Hallerud, Attorney, Midwest Region, Federal Trade Commission, 55 West Monroe Street, Suite 1825, Chicago, Illinois 60603, (312) 960–5615.

SUPPLEMENTARY INFORMATION: The Commission's July 21, 2008 **Federal Register** notice sought comments on the Rule's costs, benefits, and effectiveness. The notice also requested comments on whether the Rule should permit used car dealers to use a single bilingual Buyers Guide and, if so, on how to design a bilingual Buyers Guide. In addition, it asked for comments on the Buyers Guide's pre-printed list of major defects that may occur in used motor vehicles. Finally, the notice solicited comments on whether the Rule should be revised to permit dealers to use alternative Buyers Guides intended to facilitate the disclosure of manufacturer's warranties and other third-party warranties.

The comment period closed on November 19, 2008. Twenty comments were received during the comment period.

On March 17, 2009, the Commission received supplemental comments from the National Automobile Dealers Association and the National Independent Automobile Dealers Association responding to comments made by other interested parties during the comment period. To provide all interested parties with the same opportunity to comment further, the Commission has decided to reopen the comment period. The Commission believes that the benefit of enhancing the record by reopening the comment period outweighs any delay. Accordingly, the Commission has decided to reopen the comment period for forty-five days.

[1] 73 Fed. Reg. 42,285 (July 21, 2008).

[2] 73 Fed. Reg. 55,458 (Sept. 25, 2008).

[3] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E9–9808 Filed 4–29–09: 8:45 am]

BILLING CODE 6750–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 20

[REG–119532–08]

RIN 1545–BH94

Section 2036—Graduated Retained Interests

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that provide guidance on the portion of trust property includible in the grantor's gross estate if the grantor has retained the use of the property, the right to an annuity, unitrust, graduated retained interest, or other payment from such property for life, for any period not ascertainable without reference to the grantor's death, or for a period that does not in fact end before the grantor's death. The proposed regulations will affect estates that file Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return.

DATES: Written or electronic comments and requests for a public hearing must be received by July 29, 2009.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–119532–08), Internal Revenue Service, Room 5203, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–119532–08), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224; or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–119532–08).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Theresa M. Melchiorre, at (202) 622–3090; concerning submissions of comments or to request a hearing, Richard A. Hurst at *Richard.A.Hurst@irscounsel.treas.gov* or (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

On June 7, 2007, proposed regulations (REG–119097–05) were published in the **Federal Register** [72 FR 31487] providing guidance on the portion of trust corpus properly includible in a grantor's gross estate under sections 2036 and 2039. The IRS and Treasury Department determined that certain comments received in response to the proposed regulations should be addressed in a separate notice of proposed rulemaking, instead of in the final regulations published on July 14, 2008 [73 FR 40173], as TD 9414. Accordingly, this notice of proposed rulemaking proposes additional changes to the regulations in response to those comments.

The proposed regulations (REG–119097–05) addressed the amount includible in the gross estate under sections 2036 and 2039 if the grantor retains the right to receive an annuity, unitrust, or other payment from a trust for life, for any period not ascertainable without reference to the grantor's death, or for a period that does not in fact end before the grantor's death. The trusts that were the subject of the proposed regulations included grantor retained interest trusts (GRTs), such as grantor retained income trusts (GRITs), grantor retained annuity trusts (GRATs) and grantor retained unitrusts (GRUTs) described in section 2702, whether or not the grantor's retained interest was a ''qualified interest'' under section 2702(b), as well as other trust forms, including charitable remainder trusts (CRTs), such as charitable remainder unitrusts (CRUTs) and charitable remainder annuity trusts (CRATs) described in section 664 whether or not the trust met the qualifications of section 664(d)(1), (2), or (3). The proposed regulations incorporated the methodology provided in Rev. Rul. 76–273, 1976–2 C.B. 268, and Rev. Rul. 82–105, 1982–1 C.B. 133. See § 601.601(d)(2)(ii)(*b*). Under this methodology, the portion of the corpus of a GRT or a CRT includible in the decedent's gross estate under section 2036 is that portion of the trust corpus necessary to generate a return sufficient to pay the decedent's retained annuity, unitrust, or other payment.

One commentator suggested that the regulations address the portion of trust corpus of a GRAT includible in the grantor's gross estate under section 2036 if the deceased grantor retains an interest described in § 25.2702–3(b)(1)(ii)(A); that is, the annuity interest retained by the grantor increases annually during the term of the trust (a graduated retained interest). The commentator suggested two possible methods for determining the portion of GRAT corpus includible in the grantor's gross estate if the grantor dies during the term of such a GRAT.

Another commentator questioned the result in the example contained in § 20.2036–1(c)(1)(ii) of the proposed regulations. This example considered the situation where the decedent (D) creates an irrevocable inter vivos trust, under the terms of which all trust income is to be paid to D and E, D's spouse, in equal shares during their joint lives and, on the death of the first to die of D and E, all trust income is to be paid to the survivor. On the death of the survivor of D and E, the remainder is to be paid to another individual, F. D dies survived by E. The example concludes that, because D retained the right to receive 50 percent of the trust income for a period that did not in fact end before D's death, 50 percent of the trust's corpus is includible in D's gross estate under section 2036. The example also concludes that, if instead E had predeceased D, D would have died while entitled to all of the income from the trust, so that the entire trust corpus would have been includible in D's gross estate under section 2036.

The commentator noted that, because E is identified as D's spouse, the example unnecessarily raises issues under section 2523 (gift tax marital deduction). In addition, the commentator opined that, under the facts presented, D has retained the right to receive one-half of trust income during the joint lives of D and E, and the right to receive 100 percent of the trust income if D survives E. Thus, 50 percent of the trust corpus is includible in D's gross estate by virtue of D's retained right to receive 50 percent of the trust income during D's life, and the remaining 50 percent of the trust corpus (reduced by the actuarial value of E's income interest) is includible in D's gross estate under section 2036 by virtue of D's retained right to receive all of the trust income provided D survives E.

Explanation of Provisions

In response to the comments, these proposed regulations provide the method to be used to determine the portion of trust corpus includible in the grantor's gross estate if the grantor reserves a graduated retained interest in a trust. This method applies to graduated retained interests in property whether or not the property is held in trust.

The portion of the corpus of a GRT or a CRT includible in the decedent's gross estate under section 2036 is that portion of the trust corpus necessary to generate

a return sufficient to pay the decedent's retained annuity, unitrust, or other payment. Consistent with this approach, the proposed methodology measures the amount of corpus needed to generate sufficient income to produce the payments that would have been due even after the decedent's death, as if the decedent had survived and continued to receive the retained interest. Thus, under the proposed methodology, the amount of corpus necessary to produce the retained graduated interest is the sum of the following amounts: (1) The amount of corpus required to generate sufficient income to pay, without reducing or invading principal, the annual amount payable to the decedent at the decedent's death calculated pursuant to § 20.2036–1(c)(2)(i); and (2) for each succeeding year of the trust, the amount of corpus required to generate sufficient income to pay, without reducing or invading principal, the increase (if any) in the annuity, unitrust, or other payment for that year, deferred until the beginning date of that increase. The formula to be applied in calculating the corpus for each such succeeding year of the trust is the product of two factors: the first is the result of dividing the periodic addition (adjusted for payments made more frequently than annually, if applicable, and for payments due at the beginning, rather than the end, of a payment period (See Table K or J of § 20.2031–7(d)(6)) by the section 7520 rate (periodic addition/rate); and the second is 1 divided by the sum of 1 and the section 7520 rate raised to the T power (1/(1 + rate)^T). For purposes of this formula, T is the time (expressed in years or a portion of a year) between the date of the decedent's death and the first day of the trust's first year for which the periodic addition is payable. The periodic addition for each year after the year in which the decedent's death occurs is the amount (if any) by which the annuity, unitrust, or other payment that would have been payable for that year (if the decedent had survived) exceeds the total amount of payments for the year immediately preceding that year, provided that payments increase (and do not ever decrease). This formula would be:

$$\frac{(\text{Periodic Addition})\times(\text{Adjustment Factor})}{\text{Section 7520 Rate}}\times\frac{1}{(1+\text{Section 7520 Rate})^{T}}$$

Where adjustment factor, if applicable, is the factor for payments made more frequently than annually, and for payments due at the beginning, rather than the end, of a calendar period (See Table K or J of § 20.2031–7(d)(6)) and T equals the time period in years from the date of death through the last day of the trust year immediately before the year for which the periodic addition is first payable.

The proposed regulations also add § 20.2036–1(c)(2)(iii), *Example 7,* illustrating this computation.

In addition, in response to the comments, § 20.2036–1(c)(1)(ii), *Example 1* (which was reserved in the final regulations REG–119097–05 (TD 9414)) is added. In this example, trust income is payable to D and C, D's child, in equal shares during their joint lives and, on the death of the first to die of D and C, all trust income is to be paid to the survivor. The example concludes that, if D dies before C, 100 percent of the trust corpus, reduced by the present value of C's life interest, is includible in D's gross estate under section 2036. Fifty percent of the trust corpus is includible in D's gross estate because D retained the right to receive 50 percent of the trust's income for life. The remaining 50 percent of the trust corpus (less the present value of C's outstanding life interest) is includible in D's gross estate because at D's death D retained the right to receive all of the trust income if D survived C. This result is consistent with § 20.2036–1(b)(1)(ii).

Finally, § 20.2036–1(b)(1)(ii) is amended to clarify the computation of the includible amount if the decedent retained the right to receive an annuity or other payment (rather than income) after the death of the current recipient of that interest. Example 1 of § 20.2036–1(c)(1)(ii) has been expanded to provide an illustration of this computation. In general, under this computation, the amount includible is the portion of the date of death value of the trust corpus required to produce sufficient income to satisfy the annuity or other payment the decedent would have been entitled to receive if the decedent had survived the current recipient, reduced by the present value of the current recipient's interest. However, the amount includible shall not be less than the amount of corpus required to produce sufficient income to satisfy the annuity or other payment the decedent was entitled to receive for the trust's year in which the decedent's death occurred. In no event, however, shall the amount includible exceed the value of the trust corpus on the date of death.

Proposed Effective Date

All of § 20.2036–1(b)(1)(ii), the introductory text of § 20.2036–1(c)(1)(ii), *Example 1* of § 20.2036–1(c)(1)(ii), all of § 20.2036–1(c)(2)(ii), and *Example 7* of § 20.2036–1(c)(2)(iii) are applicable to estates of decedents dying on or after the date of publication in the **Federal Register** of the Treasury decision adopting these rules as final regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because these regulations do not impose on small entities a collection of information requirement, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and the Treasury Department also request comments on the clarity of the proposed regulations and how they may be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person that timely submits written comments to the IRS. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Theresa M. Melchiorre, Office of Associate Chief Counsel (Passthroughs and Special Industries), IRS.

List of Subjects in 26 CFR Part 20

Estate taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 20 is proposed to be amended as follows:

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

Paragraph 1. The authority citation for part 20 continues to read in part as follows:

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

Par. 2. Section 20.2036–1 is amended by:

1. Revising paragraph (b)(1)(ii) and paragraph (c)(1)(ii) introductory text.
2. Adding paragraphs (c)(1)(ii) *Example 1,* (c)(2)(ii), (c)(2)(iii) *Example 7,* and two sentences at the end of paragraph (c)(3).

The revisions and additions read as follows:

§ 20.2036–1 Transfers with retained life estate.

* * * * *

(b) * * * (1) * * *

(ii) A decedent reserved the right to receive the income, annuity, or other payment from transferred property after the death of another person who was in fact enjoying the income, annuity, or other payment at the time of the decedent's death. In such a case, the amount to be included in the decedent's gross estate under this section does not include the value of the outstanding interest of the other person. If the other person predeceased the decedent, the reservation by the decedent may be considered to be either for life, or for a period which does not in fact end before death. If the decedent retained the right to receive an annuity or other payment (rather than income) after the death of the current recipient of that interest, then the amount includible in the decedent's gross estate under section 2036 is the amount of trust corpus required to produce sufficient income to satisfy the entire annuity or other payment the decedent would have been entitled to receive if the decedent had survived the current recipient (thus, also including the portion of that entire amount payable to the decedent before the current recipient's death), reduced by the present value of the current recipient's interest. However, the amount includible shall not be less than the amount of corpus required to produce sufficient income to satisfy the annuity or other payment the decedent was entitled, at the time of the decedent's death, to receive for each year. In no event, however, shall the amount includible exceed the value of the trust corpus on the date of death. The following steps implement this computation.

(A) Step 1: Determine the fair market value of the trust corpus on the date of death.

(B) Step 2: Determine, in accordance with paragraph (c)(2)(i) of this section, the amount of corpus required to generate sufficient income to pay the annuity, unitrust, or other payment (determined on the date of the decedent's death) payable to the decedent for the trust year in which the decedent's death occurred.

(C) Step 3: Determine, in accordance with paragraph (c)(2)(i) of this section, the amount of corpus required to generate sufficient income to pay the annuity, unitrust, or other payment that the decedent would have been entitled to receive for each trust year if the decedent had survived the current recipient.

(D) Step 4: Determine the present value of the current recipient's annuity, unitrust, or other payment.

(E) Step 5: Reduce the amount determined in Step 3 by the amount determined in Step 4, but not to below the amount determined in Step 2.

(F) Step 6: The amount includible in the decedent's gross estate under section 2036 is the lesser of the amounts determined in Step 5 and Step 1.

* * * * *

(c) * * * (1) * * *

(ii) *Examples.* The application of paragraphs (b)(1)(ii) and (c)(1)(i) of this section is illustrated in the following examples:

Example 1. (i) In 2001, Decedent (D) creates an irrevocable inter vivos trust. The terms of the trust provide that all of the trust income is to be paid to D and C, D's child, in equal shares during their joint lives and, on the death of the first to die of D and C, all of the trust income is to be paid to the survivor. On the death of the survivor of D and C, the remainder is to be paid to another individual, F. In 2009, D dies survived by C. Fifty percent of the value of the trust corpus is includible in D's gross estate under section 2036(a)(1) because, under the terms of the trust, D retained the right to receive one-half of the trust income for D's life. In addition, the value of the remaining 50 percent of the trust corpus, less the present value of C's outstanding life estate, also is includible in D's gross estate under section 2036(a)(1), because D retained the right to receive all of the trust income for such time as D survived C. If C had predeceased D, then 100 percent of the trust corpus would have been includible in D's gross estate.

(ii) Assume the same facts as above, except that the trust provides that, rather than all the income, an annuity of $10,000 per year is to be paid to D and C in equal shares during their joint lives and, on the death of the first to die of D and C, the entire $10,000 annuity is to be paid to the survivor for life. On D's date of death, the fair market value of the trust is $120,000 and the section 7520 rate is 7 percent. At the date of death, the amount of trust corpus needed to produce D's annuity interest ($5,000 per year) is $71,429 ($5,000/.07). In addition, assume the present value of C's right to receive $5,000 annually for the remainder of C's life is $40,000. The portion of the trust corpus includible in D's gross estate under section 2036(a)(1) is $102,857, determined as follows:

(A) Step 1: Fair market value of corpus	$120,000
(B) Step 2: Corpus required to produce D's date of death annuity ($5,000/.07)	71,429
(C) Step 3: Corpus required to produce D's annuity if D had survived C ($10,000/.07)	142,857
(D) Step 4: Present value of C's interest	40,000
(E) Step 5: The amount determined in Step 3 reduced by the amount determined in Step 4, but not to below the amount determined in Step 2 ($142,857 − $40,000, but not less than $71,429)	102,857
(F) Step 6: The lesser of the amounts determined in Steps 5 and 1 ($102,857 or $120,000)	102,857

* * * * *

(2) * * *

(ii) *Graduated retained interests*—(A) *In general.* For purposes of this section, a *graduated retained interest* is the grantor's reservation of a right to receive an annuity, unitrust, or other payment as described in paragraph (c)(2)(i) of this section, payable at least annually, that increases (but does not decrease) over a period of time, not more often than annually.

(B) *Other definitions*—(*1*) *Base amount.* The *base amount* is the amount of corpus required to generate the annuity, unitrust, or other payment payable for the trust year in which the decedent's death occurs. See paragraph (c)(2)(i) of this section for the calculation of the base amount.

(*2*) *Periodic addition.* The *periodic addition* in a graduated retained interest for each year after the year in which decedent's death occurs is the amount (if any) by which the annuity, unitrust, or other payment that would have been payable for that year if the decedent had survived exceeds the total amount of payments for the year immediately preceding that year. For example, assume the trust instrument provides that the grantor is to receive an annual annuity payable to the grantor or his

estate for a 5-year term. The initial annual payment is $100,000, and each succeeding annual payment is to be 120 percent of the amount payable for the preceding year. Assuming the grantor dies in the second year of the trust (whether before or after the due date of the second annual payment), the periodic additions for years 3, 4, and 5 of the trust are as follows:

	(1) Annual payment	(2) Prior year payment	(1–2) Periodic addition
Year 3	144,000	120,000	24,000
Year 4	172,800	144,000	28,800
Year 5	207,360	172,800	34,560

(*3*) *Corpus amount.* For each trust year in which a periodic addition occurs (increase year), the *corpus amount* is the amount of trust corpus which, starting from the decedent's date of death, is necessary to generate an amount of income sufficient to pay the periodic addition, beginning in the increase year and continuing in perpetuity, without reducing or invading principal. For each year with a periodic addition, the corpus amount required as of the date of death is the product of two factors: the first is the result of dividing the periodic addition (adjusted for payments made more frequently than annually, if applicable, and for payments due at the beginning, rather than the end, of a payment period (see Table K or J of § 20.2031–7(d)(6))) by the section 7520 rate (periodic addition/rate); and the second is 1 divided by the sum of 1 and the section 7520 rate raised to the T power (1/(1 + rate)^T).

(*i*) That formula is:

$$\frac{(\text{Periodic Addition})\times(\text{Adjustment Factor})}{\text{Section 7520 Rate}}\times\frac{1}{(1+\text{Section 7520 Rate})^{T}}$$

(*ii*) Where adjustment factor, if applicable, is the factor for payments made more frequently than annually and for payments due at the beginning, rather than the end, of a calendar period (See Table K or J of § 20.2031–7(d)(6)) and T equals the time period in years from the date of death through the last day of the trust year immediately before the year for which the periodic addition is first payable.

(C) *Amount includible.* The amount includible in the gross estate in the case of a graduated retained interest is the sum of the base amount and the corpus amount for each year for which a periodic addition is first payable. The sum of these amounts represents the amount of trust principal that would be necessary to generate the annual payments that would have been paid to the decedent if the decedent had survived and had continued to receive the reserved graduated retained interest. The amount of trust corpus includible in a decedent's gross estate under this section, however, shall not exceed the fair market value of the trust corpus on the decedent's date of death. The provisions of this section also apply to graduated retained interests in transferred property not held in trust.

(iii) * * *

* * * * *

Example 7. (i) On November 1, year N, D transfers assets valued at $2,000,000 to a GRAT. Under the terms of the GRAT, the trustee is to pay to D an annuity for a 5-year term that qualifies as a qualified interest described in section 2702(b). The annuity amount is to be paid annually at the end of each trust year, on October 31st. The first annual payment is to be $100,000. Each succeeding payment is to be 120 percent of the amount paid in the preceding year. Income not distributed in any year is to be added to principal. If D dies during the 5-year term, the payments are to be made to D's estate for the balance of the GRAT term. At the end of the 5-year term, the trust is to terminate and the corpus is to be distributed to C, D's child. D dies on January 31st of the third year of the GRAT term. On the date of D's death, the value of the trust corpus is $3,200,000 and the section 7520 interest rate is 6.8 percent. D's executor does not elect to value the gross estate as of the alternate valuation date.

(ii) The amount includible in D's gross estate under section 2036(a)(1) is determined and illustrated as follows using the methodology contained in paragraph (c)(2)(ii)(C) of this section:

A GRAT Year	B Annual annuity payment	C Periodic addition	D Required principal: C × Adj. factor/ 0.068	E Deferral period: death to GRAT Year	F Present value factor: 1/(1+.068)^E	G Corpus amount at death: D × F
3	144,000	n/a	2,117,647	n/a	n/a	2,117,647
4	172,800	28,800	423,529	0.747945	0.951985	403,193
5	207,360	34,560	508,235	1.747945	0.891372	453,026
Total						2,973,866

(iii) An illustration of the amount of trust corpus (as of the decedent's death) necessary to produce the scheduled payments is as follows:

		Year 3	Year 4	Year 5	Includible amount
Additional Annuity	$34,560	Deferral Period		$453,026	$453,026
Additional Annuity	28,800	Deferral Period	$403,193		403,193
Annuity in Year of Death	144,000	$2,117,647			2,117,647
Total amount included in gross estate (sum)					2,973,866

(iv) A total corpus amount (as defined in paragraph (c)(2)(ii)(B)(*3*) of this section) of $2,973,866 constitutes the principal required as of D's date of death to produce (without reducing or invading principal) the annual payments that D would have received if D had survived and continued to receive the retained annuity. Therefore, $2,973,866 of the trust corpus is includible in D's gross estate under section 2036(a)(1). The remaining $226,134 of the trust corpus is not includible in D's gross estate under section 2036(a)(1). The result would be the same if D's retained annuity instead had been payable to D for a term of 5 years, or until D's prior death, at which time the GRAT would have terminated and the trust corpus would have become payable to another.

(v) If, instead, D's annuity was to have been paid on a monthly or quarterly basis, then the periodic addition would have to be adjusted as provided in paragraph (c)(2)(ii)(B)(*3*) of this section. Specifically, in Column D of the Table for years 4 and 5 in this example, the amount of the principal required would be computed by multiplying the periodic addition by the appropriate factor from Table K or J of § 20.2036–7(d)(6) before dividing as indicated and computing the amounts in Columns E through G. In addition, Column D in year 3 also would have to be so adjusted. Under the facts presented, section 2039 does not apply to include any amount in D's gross estate by reason of this retained interest. See § 20.2039–1(e).

(3) * * * Paragraph (b)(1)(ii) of this section is applicable to estates of decedents dying on or after the date of publication in the **Federal Register** of the Treasury decision adopting these rules as final regulations. The introductory text of paragraph (c)(1)(ii) of this section, *Example 1* of paragraph (c)(1)(ii) of this section, all of paragraph (c)(2)(ii) of this section, and *Example 7* of paragraph (c)(2)(iii) of this section, are applicable to estates of decedents dying on or after the date of publication in the **Federal Register** of the Treasury decision adopting these rules as final regulations.

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

[FR Doc. E9–10003 Filed 4–29–09; 8:45 am]

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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[TTB Docket No. 2007–0060; Notice No. 94; Re: Notice Nos. 71 and 72]

RIN 1513–AB27

Proposed Establishment of the Paso Robles Westside Viticultural Area (2006R–087P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau announces the withdrawal of its proposal to establish the Paso Robles Westside viticultural area within the existing Paso Robles viticultural area in San Luis Obispo County, California. We take this action because, given the conflicting information before us, we cannot conclude that a delimited grape-growing region exists that is recognized by the name Paso Robles Westside.

DATES: Notice No. 71 is withdrawn as of April 30, 2009.

FOR FURTHER INFORMATION CONTACT: N. A. Sutton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville St., 158, Petaluma, CA 94952; telephone 415–271–1254.

SUPPLEMENTARY INFORMATION:

Background

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels, and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the regulations promulgated under the FAA Act.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for petitions for the establishment of viticultural areas and contains the list of approved viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Section 9.3(b) of the TTB regulations requires the petition to include—

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that supports setting the boundary of the proposed viticultural area as the petition specifies;
- Evidence relating to the geographic features, such as climate, soils, elevation, and physical features, that distinguish the proposed viticultural area from surrounding areas;

• A description of the specific boundary of the proposed viticultural area, based on features found on United States Geological Survey (USGS) maps; and

• A copy of the appropriate USGS map(s) with the proposed viticultural area's boundary prominently marked.

Publication of Notice No. 71

On January 24, 2007, TTB published Notice No. 71, a notice of proposed rulemaking, in the **Federal Register** (72 FR 3088) regarding the proposed establishment of the ''Paso Robles Westside'' American viticultural area in northern San Luis Obispo County, California. We undertook that action in response to a petition filed on behalf of 21 vintners and grape growers with interests in the proposed viticultural area. As outlined in Notice No. 71, the proposed Paso Robles Westside viticultural area lay west of the Salinas River but entirely within the existing Paso Robles viticultural area (27 CFR 9.84), which in turn is entirely within the existing, multi-county Central Coast viticultural area (27 CFR 9.75).

Comments on the proposed Paso Robles Westside viticultural area were originally due on or before March 26, 2007. However, on March 23, 2007, in response to a request from other Paso Robles wine industry members, we extended the comment period for Notice No. 71 until April 24, 2007 (see Notice No. 72 published in the **Federal Register** at 72 FR 13720 on March 23, 2007).

Shortly before publication of Notice No. 71, TTB received 12 petitions from the Paso Robles AVA Committee (PRAVAC), one of which proposed the expansion of the existing Paso Robles viticultural area and 11 of which proposed the establishment of 11 smaller viticultural areas within the expanded Paso Robles viticultural area.

Comments Received in Response to Notice No. 71

TTB received 220 comments in response to Notice No. 71. Of those, 144 supported the establishment of the proposed Paso Robles Westside viticultural area, 61 opposed it, and, of the remaining 15 commenters, 2 requested an extension of time to comment and 13 provided comments that could not be described as clearly supporting or opposing the proposal. The 144 supporting comments included 19 from grape growers and/or wine producers and 125 from other sources. Of the 61 opposing comments, 43 were from grape growers and/or wine producers, including a single comment from the 59-member PRAVAC. The remaining 18 opposing comments were from other sources. These comments are posted under Notice No. 71 on the TTB Web site at *http://www.ttb.gov/wine/wine_rulemaking.shtml.*

Supporting Comments

The 19 grape growers and/or wine producers supporting the establishment of the Paso Robles Westside viticultural area agree that the proposed area's topography, climate, and soils are different from the rest of the existing Paso Robles viticultural area and that the area is therefore deserving of separate recognition under the Paso Robles Westside name.

Doug Beckett, the owner of Peachy Canyon Winery and the proposed Paso Robles Westside lead petitioner, submitted two strongly supportive comments (numbered by TTB as comments 55 and 128) for the area's establishment. In comment 55, he largely reiterates the petition's evidence and conclusions. He states, for example, that the soil analysis report included in the petition found that the ''soils contained in the Proposed Paso Robles Westside AVA are unique to the area.'' In comment 128, Mr. Beckett argues that the Paso Robles Westside viticultural area petition does not conflict with the separate PRAVAC effort to expand the existing Paso Robles viticultural area and then sub-divide the resulting larger Paso Robles viticultural area into 11 smaller viticultural areas.

Other Paso Robles grape growers and wine producers agree with Mr. Beckett. For example, Robert Hartenberger of Midnight Cellars (comment 80) and Bob Shore of Arroyo Robles Winery (comment 84) state that the proposed Paso Robles Westside viticultural area's climate, topography, soils, and name recognition contrast with the east side of the existing Paso Robles viticultural area, and the Paso Robles Westside region is therefore deserving of its own viticultural area designation.

In addition, some Paso Robles wine industry members express concern over the misuse of the ''Westside'' name. Noting that his winery uses the ''Westside'' claim on some wines, Erich Russell of Rabbit Ridge Winery (comment 71), states that another winery uses the ''West side'' name on a wine made from non-West side, and even non-Paso Robles, grapes. He states, therefore, that TTB should approve the Westside petition to stop the misuse of the Paso Robles Westside name. Gary Conway of Carmody McKnight Estate Wines (comment 114) notes that the proposed area's establishment would allow those within the area ''to determine their own viticultural future,'' and that ''if there are some within the area who don't wish to adopt the name, there is such a simple solution for them. Don't use it.''

The 125 other supportive commenters include wine consumers familiar with the Paso Robles viticultural area, as well as wine distributors, retailers, and sales personnel. Some comments largely focus on the distinctive taste of wines produced on the west side of the existing Paso Robles viticultural area, while others note the rolling topography and distinguishable climate and soils to the west of the Salinas River. Some commenters argue that, based on the 100-plus year history of the ''Westside'' name, recognition of the Paso Robles Westside viticultural area is long overdue and that its establishment would enhance the entire Paso Robles region's wine industry. Additional commenters offer support for evidence contained in the Westside petition, including its soil analysis section.

Opposing Comments

As noted above, TTB received 61 comments opposing the establishment of the Paso Robles Westside viticultural area. Of those, 43 comments were from grape growers and/or wine producers with interests in the existing Paso Robles viticultural area. In general, these 43 commenters note the location of their vineyards and describe significant variations in climate, geology, soil, and topography within the proposed Paso Robles Westside viticultural area. Some of these commenters also describe the viticultural similarities between the west and east sides of the existing Paso Robles viticultural area.

The 43 grape growers and/or wine producer commenters included two persons who withdrew their names from the Paso Robles Westside petition and two persons who were among the original 1982 Paso Robles viticultural area petitioners.

Elizabeth Van Steenwyck of Adelaida Cellars (comment 121) and Justin Baldwin of Justin Vineyards (comment 124) withdrew their names as supporting petitioners for the proposed Paso Robles Westside viticultural area. After indicating her specific reasons for her withdrawal of support for the Westside petition, Ms. Van Steenwyck concludes: ''The establishment of a Paso Robles Westside AVA has little, if any, viticultural relevance, lacks geographic definition, and will not serve the best interests of the entire Paso Robles wine community in the long term.'' Mr. Baldwin states that the PRAVAC proposal ''is more comprehensive and is

based on more sound and substantial scientific, historic, and climatic data.''

Gary Eberle (comment 86) and Herman Schwartz (comment 134), who were original 1982 Paso Robles viticultural area petitioners, also submitted comments opposing Notice No. 71. These commenters note the diversity of the proposed Paso Robles Westside viticultural area's climate and geography and object to the use of the Salinas River as its proposed eastern boundary line. Also, they state that ''Paso Robles Westside,'' as a geographical term, could mislead consumers. Charging that the Paso Robles Westside petition uses ''cherry picked'' data and information, Mr. Eberle states: ''When we created such a large and diverse AVA we knew that down the line there would be a movement to create smaller AVAs within the area * * * based on sound viticultural and scientific information. Unfortunately, an application for the Paso Robles Westside AVA has been filed that is the antithesis of this.'' Concerning geographical diversity, Mr. Schwartz remarked: ''Most experienced wine people in our area are keenly aware of the vast differences in the proposed new Westside appellation that runs the gamut from one of the hottest, flattest and driest areas in the entire North County of San Luis Obispo to one of the more moderate in temperature, slightly rolling hills and the highest rainfall in our county, let alone the varieties of soil types and the quantity and quality of the water.''

While most opposing commenters supported other plans to divide the existing Paso Robles viticultural area into smaller viticultural areas, some did not. For example, Richard Sauret, president of the Independent Grape Growers of the Paso Robles Area, a group of 195 growers, states (comment 213): ''As a native of Paso Robles and a grape grower for 55 years I didn't think I would ever see a political fiasco of this magnitude in Paso Robles.'' Mr. Sauret opposes all efforts to sub-divide the existing Paso Robles viticultural area, including the Paso Robles Westside petition and the petitions submitted by the PRAVAC.

The PRAVAC submitted a lengthy opposing comment (comment 98) on behalf of its 59 grape-grower and winery members. According to PRAVAC, its members farm approximately 1,700 acres and own 15 wineries in the portion of the existing Paso Robles viticultural area that is west of the Salinas River. As noted above, the PRAVAC submitted a petition to TTB to expand the existing Paso Robles viticultural area and 11 petitions to sub-divide the area, as expanded, into smaller viticultural areas. The PRAVAC notes that 5 of the 11 proposed smaller viticultural areas lie wholly or partially west of the Salinas River, that is, within the proposed Paso Robles Westside viticultural area. Two of those proposed viticultural areas lie on both the east and west sides of the Salinas River and thus would overlap the proposed Paso Robles Westside viticultural area, and the other three lie wholly within it.

The ''Westside'' name, according to the PRAVAC, is not locally or nationally known to refer to the proposed viticultural area and is confusing, misapplied, and inappropriate in the context of the petition. The ''Westside'' name, the PRAVAC states, refers to a much smaller area, limited to a portion of the City of Paso Robles and the entire Adelaida District, but not extending to the northern or southern limits of the proposed Paso Robles Westside viticultural area boundary line.

The PRAVAC claims that the Paso Robles Westside viticultural area petition lacks adequate scientific support and justification. The PRAVAC notes that its research shows that the climate and geographic features of the proposed Paso Robles Westside viticultural area fail to distinguish it from the Paso Robles area east of the Salinas River. In support of this contention, the PRAVAC comment includes a point-by-point rebuttal of the Paso Robles Westside petition researched and written by Dr. Deborah Elliott-Fisk, an ecology professor at the University of California, Davis. Dr. Elliott-Fisk explains that she conducted recent in-depth scientific research of the Paso Robles viticultural area that contributed to the development of the one expansion petition and the 11 new establishment petitions submitted by the PRAVAC.

Dr. Elliott-Fisk argues that the Salinas River does not divide the existing Paso Robles viticultural area into two distinct east-west regions based on climate, geology, soils, topography, elevation, landforms, or natural vegetation. She states that viticultural conditions within the existing Paso Robles viticultural area change from north to south instead of from east to west. Noting that climates change along gradients in latitude, longitude, maritime and continental position, elevation, orographic position, and other physical parameters, Dr. Elliott-Fisk states that the existing Paso Robles viticultural area ''shows incredible diversity in vineyard geographics and viticultural environments, from an almost desert climate in the north to a maritime climate in the central portion to a cold, wet mountain climate to the south.'' In addition, she also contends that no soil series found in the proposed Paso Robles Westside viticultural area is unique to that area. Based on her research, Dr. Elliott-Fisk concludes that ''[t]he proposed Paso Robles Westside viticultural area makes no sense from a historical, geographical, or viticultural perspective'' and that ''[t]he flawed and deficient petition does not support the establishment of the proposed Paso Robles Westside AVA.''

The PRAVAC comment thus urges TTB to reject the Paso Robles Westside viticultural area petition. As an alternative, PRAVAC suggests TTB consolidate into one public notice the Paso Robles Westside viticultural area petition with the 12 PRAVAC petitions to expand and sub-divide the existing Paso Robles viticultural area. The commenter also requested a public hearing if TTB decides to proceed with rulemaking for the Paso Robles Westside viticultural area.

Other opposing grape growers and wine producers also comment that the supporting data for the Paso Robles Westside viticultural area petition is, at times, inadequate or wrong. They believe that the scientific data provided in the petition does not support establishment of the Paso Robles Westside viticultural area. They also note that the climate, soils, elevation, natural vegetation, and other geographical features of the proposed Paso Robles Westside viticultural area fail to distinguish it from other parts of the larger Paso Robles viticultural area. Further, some commenters state that the cooling marine influence coming through the Templeton Gap affects certain portions of the proposed viticultural area more than other areas, and that the marine influence significantly affects some portions of the Paso Robles viticultural area east of the Salinas River.

According to comments of some opposing wine industry members, the Salinas River, as the eastern boundary line for the proposed Paso Robles Westside boundary line, is an over-simplification of regional viticultural differences that could have long-range negative implications for other Paso Robles viticultural area petitions. Other commenters claim the ''Westside'' name is ambiguous or vague and could confuse and mislead consumers.

The 18 opposing commenters who are neither grape growers nor wine producers include wine consumers, local residents, and scientists with expertise in climate, soil and geology. Some of these commenters describe the Paso Robles Westside viticultural area

petition as a wine industry marketing effort. A local resident states that the proposed Paso Robles Westside viticultural area ''includes a wide diversity of land, climate, geology and soils as to be a completely arbitrary division.'' Other commenters contend, similar to the PRAVAC, that the recognized ''west side'' of the Paso Robles region encompasses only a western portion of the City of Paso Robles and the Adelaida District, not the significantly larger proposed Paso Robles Westside viticultural area.

Dr. Thomas Rice, a certified professional soil scientist who provided soil information for the Paso Robles Westside viticultural area petition, submitted two comments opposing Notice No. 71 (comments 94 and 129). In his opposing comments, Dr. Rice states that some of his soils information ''has been inaccurately quoted'' and that ''some erroneous conclusions regarding the soils in the Paso Robles AVA have been stated in the final petition.'' He adds that ''not a single soil series mapped by the USDA that occurs within the proposed Paso Robles Westside AVA is unique to that area.'' He concludes by urging TTB ''to reject the Paso Robles Westside petition based on its inaccurate, misleading and false statements related to topography and soils diversity within the larger Paso Robles AVA.''

Opposing commenter Richard Hoenisch (comment 112), a plant pathologist at the University of California, Davis, and the education director for the western region of the National Plant Diagnostic Network, explains that he served for six years as the founding manager of the Tablas Creek Winery in Paso Robles. Mr. Hoenisch states that, based on his past and current experience and knowledge, the proposed Paso Robles Westside viticultural area ''includes too many different geologies, soil types, and micro-climates.'' Mr. Hoenisch concludes that the Paso Robles area contains many distinct and excellent potential viticultural area sites.

Mr. Donald Schucraft, a certified consulting meteorologist with the Western Weather Group, explains in his opposing comment (comment 122) that in the mid-1990's he led a team of meteorologists and physical scientists that established a network of automated weather stations in the Paso Robles region, and that these stations continue to provide key information for localized Paso Robles weather forecasts. Based on the data from these stations, Mr. Schucraft states that the Salinas River does not provide a suitable boundary line for the many different microclimates found in the Paso Robles viticultural area. He notes that there are distinct microclimates to the west of the Salinas River within the proposed Paso Robles Westside viticultural area, and that these microclimates change from north to south as well as to east to west.

Seasonal rainfall, according to Mr. Schucraft, varies from 11 to 12 inches in the northern-most part of the proposed Paso Robles Westside viticultural area to 27 to 28 inches in the southern-most part. Also, air temperatures, influenced by the marine air passing through the Templeton Gap, and wind speeds, influenced by the Salinas River Valley Basin, vary widely within the proposed viticultural area. Mr. Schucraft concludes that observed weather in the Paso Robles region fails to define the proposed Paso Robles Westside viticultural area as a single viticultural region, but instead supports the existence of multiple viticultural regions within the existing Paso Robles viticultural area.

TTB Finding

TTB notes that there is a marked lack of unanimity among the commenters concerning the appropriateness of establishing the proposed Paso Robles Westside viticultural area. While substantial petition evidence and a large number of comments support the establishment of the proposed viticultural area, we also received a significant number of comments setting forth information that refutes, or is otherwise inconsistent with that petition evidence. Some of those comments challenge the appropriateness of the Paso Robles Westside name. Other commenters, including scientific experts, contradict the geographical feature evidence presented in the petition and relied upon by TTB in Notice No. 71 as a basis for proposing the establishment of the Paso Robles Westside viticultural area.

Given the conflicting information before us, we cannot conclude that a delimited grape-growing region exists that is recognized by the name ''Paso Robles Westside,'' or that the area described in Notice No. 71 is distinguishable by geographical features. Accordingly, TTB hereby withdraws its proposal to establish the Paso Robles Westside viticultural area.

With regard to the petitions submitted by the PRAVAC to establish 11 smaller viticultural areas within the Paso Robles viticultural area, TTB will review those 11 petitions independently from this regulatory action. A notice regarding the PRAVAC proposal to expand the existing Paso Robles viticultural area was published in the **Federal Register** on July 15, 2008 (see Notice No. 85, 73 FR 40474).

Signed: February 12, 2009.

John J. Manfreda,

Administrator.

Approved: February 27, 2009.

Timothy E. Skud,

Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

[FR Doc. E9–9855 Filed 4–29–09; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[USCG–2009–0110]

RIN 1625–AA00

Safety Zone; Thunder on Niagara, Niagara River, North Tonawanda, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes establishment of a safety zone for a powerboat race in the Captain of the Port Buffalo zone. This proposed rule is intended to restrict vessels from areas of water during events that pose a hazard to public safety. The safety zone established by this proposed rule is necessary to protect spectators, participants, and vessels from the hazards associated with a powerboat race.

DATES: Comments and related materials must be received by the Coast Guard on or before June 29, 2009. Requests for public meetings must be received by the Coast Guard on or before May 29, 2009.

ADDRESSES: You may submit comments identified by docket number USCG–2009–0110 using one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

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

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

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the

SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, contact Lieutenant Brian Sadler, Prevention Department, U.S. Coast Guard Sector Buffalo, at (716) 843–9573. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this 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.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2009–0110), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via *http://www.regulations.gov*) or by fax, mail, or hand deliver, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand delivery, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* select the Advanced Docket Search option on the right side of the screen, insert ''USCG–2009–0110 in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments 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 and may change the proposed rule in view of them.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* select the Advanced Docket Search option on the right side of the screen, insert USCG–2009–0119 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. You may also visit either 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; or the Coast Guard Sector Buffalo, 1 Fuhrmann Blvd., Buffalo, NY 14203 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

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 notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one on or before May 29, 2009 using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Temporary safety zones are necessary to ensure the safety of vessels and spectators from the hazards associated with powerboat races. Based on recent accidents that have occurred in other Captain of the Port zones, the Captain of the Port Buffalo, has determined powerboat races pose significant risks to public safety and property. The likely combination of large numbers of recreational vessels, congested waterways, and alcohol use, could easily result in serious injuries or fatalities.

Discussion of Proposed Rule

The proposed rule and associated safety zone are necessary to ensure the safety of vessels and people during events in the Captain of the Port Buffalo area of responsibility that may pose a hazard to the public. The proposed safety zone is described in subparagraph (1) of this regulation. The proposed safety zone will be enforced only immediately before and during the event which poses hazard to the public and only upon notice by the Captain of the Port. The Captain of the Port Buffalo will cause notice of enforcement of the safety zone established by this section to be made by all appropriate means to the affected segments of the public including publication in the **Federal Register** as practicable, in accordance with 33 CFR 165.7(a). Such means of notification may also include, but are not limited to Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port will issue a Broadcast Notice to Mariners notifying the public when enforcement of the safety zone established by this section is suspended.

Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This proposed 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 proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. The Coast Guard's use of this safety zone will be periodic in nature, of short duration, and designed to minimize the impact on navigable waters. This safety zone will only be enforced immediately before and during the time the event occurs. Furthermore, this safety zone has been designed to allow vessels to transit unrestricted to portions of the waterway not affected by the safety zone. The Coast Guard expects insignificant adverse impact to mariners from the activation of this safety zone.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered

whether this proposed 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in the area designated as the safety zone in subparagraph (1) during the date and time the safety zone is being enforced. This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. The safety zone in this proposed rule would be in effect for short periods of time and only once per year. The proposed safety zone has been designed to allow traffic to pass safely around the zone whenever possible and vessels will be allowed to pass through the zone with the permission of the Captain of the Port.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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 proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LT Brian Sadler, Prevention Department, Coast Guard Sector Buffalo, Buffalo, NY at (716) 843–9573. 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 proposed 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 proposed 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 proposed rule will not result in such expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

Taking of Private Property

This proposed rule will not effect the 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 proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed 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 proposed 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 proposed 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 0023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination under the Instruction that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

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, 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. Add § 165.T09–0110 to read as follows:

§ 165.T09–0110 Safety Zone; Thunder on Niagara, Niagara River, North Tonawanda, NY.

(a) *Location.* The following area is a temporary safety zone: all waters of the Upper Niagara River, North Tonawanda, NY within two miles of the Grand Island Bridge located at 42°03′36″ N, 078°54′45″ W to 43°03′09″ N, 078°55′21″ W to 43°03′00″ N, 078°53′42″ W to 43°02′42″ N, 078°54′09″ W. All Geographic coordinates are North American Datum of 1983 (NAD 83).

(b) *Effective Period.* This regulation is effective from 11 a.m. August 29, 2009 to 6 p.m. August 30, 2009. This zone will be enforced from 11 a.m. to 6 p.m. on August 29, 2009 and August 30, 2009.

(c) *Regulations.*

(1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator shall proceed as directed.

(3) Commercial vessels may request permission from the Captain of the Port Buffalo to transit the safety zone. Approval will be made on a case-by-case basis. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. The Captain of the Port may be contacted via U.S. Coast Guard Sector Buffalo on Channel 16, VHF–FM.

Dated: March 6, 2009.

R.S. Burchell,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. E9–9993 Filed 4–29–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–0125]

RIN 1625–AA87

Security Zone; Freeport Channel Entrance, Freeport, TX

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish 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 would 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 (COTP) 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 COTP Houston-Galveston.

DATES: Comments and related material must reach the Coast Guard on or before June 1, 2009.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2008–0125 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

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

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

(5) To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Lieutenant Cliff Harder, Marine Safety Unit Galveston, telephone (409) 978–2700, extension 2705, or e-mail *cliff.j.harder@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this 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.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2008–0125), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via *http://www.regulations.gov*) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand-deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* select the Advanced Docket Search option on the right side of the screen, insert ''USCG–2008–0124'' in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand

delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments 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 and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* select the Advanced Docket Search option on the right side of the screen, insert USCG–2008–0124 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

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 the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://DocketsInfo.dot.gov*.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

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 proposes to establish moving security zones around certain vessels. This would make permanent a temporary final rule that was effective from January 15, 2009, to April 30, 2009. *See* 74 FR 13343.

This proposed 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 security 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 proposed 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 would 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 these vessels, and potential use of the vessels to launch attacks on waterfront facilities and adjacent population centers located within the Captain of the Port Houston-Galveston zone. 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 Proposed Rule

The Coast Guard proposes to establish 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 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 would be established as follows: 1000 yards ahead and astern and 500 yards on each side of certain vessels, which would display the international signal flag or pennant number five, 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 COTP 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 COTP through Marine Safety Unit Galveston, by telephone at (409) 978–2700, or by facsimile at (409) 978–2671.

Regulatory Evaluation

This proposed 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 proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. The basis of this finding is that the duration of the proposed security zones is limited in nature and would not create undue delay to vessel traffic in and around the Port of Freeport.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (*see*

ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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 proposed 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) 978–2700, extension 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 proposed 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 proposed 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 proposed rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 0023.1 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**. This proposed rule involves establishing moving security zones around certain vessels in the Caption of the Port Houston-Galveston zone. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

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, 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. Add new § 165.818 to read as follows:

§ 165.818 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 (1000) 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) *Regulations.* (1) Entry into or remaining in the 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 described in paragraph (a) of this section must remain moored or anchored unless it obtains permission from the Captain of the Port to do otherwise.

(ii) Commercial vessels operating at the waterfront facilities within zone described in paragraph (a) of this section.

(iii) Commercial vessel transiting directly to or from waterfront facilities within a security zone described in paragraph (a) of this section.

(iv) Vessels providing direct operational/logistic support to commercial vessels within a security zone described in paragraph (a) of this section.

(v) Vessels operated by the port authority or by facilities located within a security zone described in paragraph (a) of this section.

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

(2) All persons and vessels within a security zone described in paragraph (a) of this section must 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.

(3) 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's designated on-scene representative for the moving security zone on VHF Channel 16, or by telephone at (979) 233–7551.

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

(d) *Authority.* In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

Dated: February 18, 2009.

William J. Diehl,

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

[FR Doc. E9–9990 Filed 4–29–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–0124]

RIN 1625–AA87

Security Zone; Freeport LNG Basin, Freeport, TX

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a permanent 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: Comments and related material must reach the Coast Guard on or before June 1, 2009.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2008–0124 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

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

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

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Lieutenant Cliff Harder, Marine Safety Unit Galveston, telephone (409) 978–2700, extension 2705, or e-mail *cliff.j.harder@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this 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.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2008–0124), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via *http://www.regulations.gov*) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov*, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand-deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, select the Advanced Docket Search option on the right side of the screen, insert ''USCG–2008–0124'' in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments 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 and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, select the Advanced Docket Search option on the right side of the screen, insert USCG–2008–0124 in the Docket ID box, press Enter, and then click on the item in the

Docket ID column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

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 the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://DocketsInfo.dot.gov*.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

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 proposes to establish a permanent security zone within the port of Freeport, TX. This would make permanent a temporary final rule that was effective from January 15, 2009, to April 30, 2009. *See* 74 FR 13341.

This proposed rule would establish a new distinct security zone in the Freeport LNG Basin. 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 platforms from which terrorist attacks may be launched upon from other vessels, waterfront facilities, and adjacent population centers.

This zone is being proposed for an area concentrated with commercial facilities considered critical to national security. This proposed 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 vessels not exempted under current 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 Proposed Rule

The Captain of the Port Houston-Galveston proposes to amend 33 CFR 165.814 to establish a permanent security zone in the Freeport LNG Basin. In proposed paragraph (a)(5)(iii), the zone would encompass all waters shoreward of a line drawn between the eastern point at latitude 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 current paragraph (c) of section 165, would be prohibited from entering the proposed security zone unless authorized by the Captain of the Port Houston-Galveston or his designated representative. Revisions to paragraph (c)(2) would provide methods of obtaining authorization: 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.

We propose to delete paragraph (b) of 33 CFR 165.814 because it merely states a past effective date for that section and there is no need for this effective date in the regulatory text of a permanent regulation. Accordingly, we propose to redesignate paragraph (c) of section 165.814 as (b).

Regulatory Evaluation

This proposed 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 proposed rule to be so minimal that a full Regulatory Evaluation 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.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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 proposed 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) 978–2700, extension 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 proposed 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 proposed 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 proposed rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 0023.1 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**. This proposed rule involves establishing a permanent security zone in the Freeport LNG Basin. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

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, 3703; 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. Amend § 165.814 as follows:

a. Remove paragraph (b) and redesignate paragraph (c) as (b);

b. Add paragraph (a)(5)(iii) and revise redesignated paragraph (b)(2) to read as follows:

§ 165.814 Security Zone; Captain of the Port Houston-Galveston Zone.

(a) * * *

(5) * * *

(iii) The Freeport LNG Basin containing all waters shoreward of a line drawn between the eastern point at latitude 28°56′25″ N., 095°18′13″ W., and the western point at 28°56′28″ N., 095°18′31″ W. east towards the jetties.

(b) * * *

(2) Other persons or vessels requiring entry into a zone described in this section must request express permission to enter from the Captain of the Port Houston-Galveston, or designated representative. The Captain of the Port Houston-Galveston's designated representatives are any personnel granted authority by the Captain of the Port Houston-Galveston to receive, evaluate, and issue written security zone entry permits, or the designated on-scene U.S. Coast Guard patrol personnel described in paragraph (b)(4).

* * * * *

Dated: February 18, 2009.

William J. Diehl,

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

[FR Doc. E9–9991 Filed 4–29–09; 8:45 am]

BILLING CODE 4910–15–P

Notices

Federal Register

Vol. 74, No. 82

Thursday, April 30, 2009

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service (RUS) invites comments on this information collection for which approval from the Office of Management and Budget (OMB) will be requested.

DATES: Comments on this notice must be received by June 29, 2009.

FOR FURTHER INFORMATION CONTACT: Michele Brooks, Director, Program Development and Regulatory Analysis, USDA–RUS, 1400 Independence Ave., SW., STOP 1522, Room 5162, South Building, Washington, DC 20250–1522. Telephone: (202) 690–1078. Fax: (202) 720–8435.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (*see* 5 CFR 1320.8(d)). This notice identifies an information collection that RUS is submitting to OMB for revision.

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 will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Michele Brooks, Director, Program Development and Regulatory Analysis, USDA–RUS, STOP 1522, 1400 Independence Ave., SW., Washington, DC 20250–1522. FAX: (202) 720–8435.

Title: 7 CFR Part 1717, Settlement of Debt Owed by Electric Borrowers.

OMB Control Number: 0572–0116.

Type of Request: Revision of a currently approved information collection package.

Abstract: The Rural Utilities Service makes mortgage loans and loan guarantees to electric systems to provide and improve electric service in rural areas pursuant to the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*) (RE Act). This information collection requirement stems from passage of Public Law 104–127, on April 4, 1996, which amended section 331(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 *et seq.*) to extend to RUS the Secretary of Agriculture's authority to settle debts with respect to loans made or guaranteed by RUS. Only those electric borrowers that are unable to fully repay their debts to the Government and who apply to RUS for relief will be affected by this information collection.

The collection will require only that information which is essential for determining: The need for debt settlement; the amount of relief that is needed; the amount of debt that can be repaid; the scheduling of debt repayment; and, the range of opportunities for enhancing the amount of debt that can be recovered. The information to be collected will be similar to that which any prudent lender would require to determine whether debt settlement is required and the amount of relief that is needed. Since the need for relief is expected to vary substantially from case to case, so will the required information collection.

Estimate of Burden: Public reporting for this collection of information is estimated to average 2,000 hours per response.

Respondents: Not-for-profit institutions and other businesses.

Estimated Number of Respondents: 1.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 2,000 hours.

Copies of this information collection can be obtained from Joyce McNeil, Program Development and Regulatory Analysis at (202) 720–0812. FAX: (202) 720–8435.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: April 24, 2009.

James R. Newby,

Acting Administrator, Rural Utilities Service.

[FR Doc. E9–9996 Filed 4–29–09; 8:45 am]

BILLING CODE 3510–15–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Special Supplemental Nutrition Program for Women, Infants and Children (WIC) Form: FNS–339, WIC Federal and State Agreement

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

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. The proposed information collection is a request to revise a currently approved collection of information relating to the reporting and recordkeeping burden associated with completing and submitting form FNS–339, the WIC Federal and State Agreement.

DATES: Written comments must be received on or before June 29, 2009.

ADDRESSES: 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 will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of

the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to: Debbie Whitford, Acting Director, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 520, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Debbie Whitford, Acting Director, Supplemental Food Programs Division at (703) 305–2196. E-mail: Send comments to *WICHQ–SFPD@fns.usda.gov.* Include title in the subject line of the message. Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5 p.m. Monday through Friday) at 3101 Park Center Drive, Room 520, Alexandria, Virginia 22302.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Patty Davis, Chief, Program Analysis and Monitoring Branch, Supplemental Food Programs Division at (703) 305–2746.

SUPPLEMENTARY INFORMATION:

Title: WIC Federal and State Agreement.

OMB Number: 0584–0332.

Form Number: FNS–339.

Expiration Date: October 31, 2009.

Type of Request: Revision of a currently approved collection.

Abstract: The proposed information collection relates to the reporting and recordkeeping burden associated with completing and submitting form FNS–339, the WIC Federal and State Agreement. The Agreement is the contract between USDA and Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) State agencies, WIC Farmers' Market Nutrition Programs and Senior Farmers' Market Nutrition Programs which authorize the Department to release funds to the States for the administration of the WIC Program in the jurisdiction of the State in accordance with the provisions of 7 CFR part 246.

The Agreement requires the signature of the agency official and includes a certification/assurance regarding drug free workplace, a certification regarding lobbying and a disclosure of lobbying activities.

Public reporting burden for this collection of information is estimated at an average .25 hours per response, including the time for reviewing instructions, researching, and preparing the form.

Affected Public: State, Local and Tribal governments. Respondent Type—The Chief Health Officer of the State agency.

Estimated Number of Respondents: 140.

Estimated Number of Responses per Respondent: One.

Estimated Total Annual Responses: 140.

Estimated Total Annual Burden on Respondents: 35 hours.

Dated: April 23, 2009.

E. Enrique Gomez,

Acting Administrator, Food and Nutrition Service.

[FR Doc. E9–9955 Filed 4–29–09; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Tehama County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Tehama County Resource Advisory Committee (RAC) will meet in Red Bluff, California. Agenda items to be covered include: (1) Introductions, (2) Approval of Minutes, (3) Public Comment, (4) Chairman's Perspective, (5) Project Proposal Presentations, (6) Vote on Projects if time permits, (7) Next Agenda.

DATES: The meeting will be held on April 16, 2009 from 9 a.m. and end at approximately 12 p.m.

ADDRESSES: The meeting will be held at the Lincoln Street School, Pine Room, 1135 Lincoln Street, Red Bluff, CA. Individuals wishing to speak or propose agenda items must send their names and proposals to Randy Jero, Committee Coordinator, 825 N. Humboldt Ave., Willows, CA 95988.

FOR FURTHER INFORMATION CONTACT: Randy Jero, Committee Coordinator, USDA, Mendocino National Forest, Grindstone Ranger District, 825 N. Humboldt Ave., Willows, CA 95988. (530) 934–3316; E-MAIL *rjero@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Committee discussion is limited to Forest Service staff and Committee members. However, persons who wish to bring matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Public input sessions will be provided and individuals who made written requests by April 13, 2009 will have the opportunity to address the committee at those sessions.

Dated: April 2, 2009.

Eduardo Olmedo,

Designated Federal Official.

[FR Doc. E9–9658 Filed 4–29–09; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Submission for OMB Review; Comment Request

The United States Patent and Trademark Office (USPTO) will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: United States Patent and Trademark Office (USPTO).

Title: Post Registration (Trademark Processing).

Form Number(s): PTO Forms 1553, 1583, 1597, 1963, 4.16.

Agency Approval Number: 0651–0055.

Type of Request: Revision of a currently approved collection.

Burden: 17,466 hours.

Number of Respondents: 127,136 responses.

Avg. Hours per Response: 3 to 30 minutes (0.05 to 0.50 hours). This includes time to gather the necessary information, create the documents, and mail the completed request. The time estimates for the electronic forms in this collection are based on the average amount of time needed to complete and electronically file the associated form.

Needs and Uses: The information in this collection is a matter of public record and is used by the public for a variety of private business purposes related to establishing and enforcing trademark rights. The information is

available at USPTO facilities and also can be accessed at the USPTO Web site. Additionally, the USPTO provides the information to other entities, including Patent and Trademark Depository Libraries (PTDLs). The PTDLs maintain the information for use by the public.

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Nicholas A. Fraser, e-mail: *Nicholas.A.Fraser@omb.eop.gov*.

Once submitted, the request will be publicly available in electronic format through the Information Collection Review page at *http://www.reginfo.gov.*

Paper copies can be obtained by:

- *E-mail: Susan.Fawcett@uspto.gov.* Include ''0651–0055 Post Registration (Trademark Processing) copy request'' 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, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before June 1, 2009 to Nicholas A. Fraser, OMB Desk Officer, via e-mail at *Nicholas.A.Fraser@omb.eop.gov* or by fax to (202) 395–5167, marked to the attention of Nicholas A. Fraser.

Susan K. Fawcett,

Records Officer, USPTO, Office of the Chief Information Officer, Administrative Management Group.

[FR Doc. E9–9908 Filed 4–29–09; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Proposed Information Collection; Comment Request; Manufacturing Extension Partnership (MEP) Management Information Reporting

AGENCY: National Institute of Standards and Technology (NIST).

ACTION: Notice.

SUMMARY: The Department of Commerce, 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 proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before June 29, 2009.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection tools and instructions should be directed to, Kenneth P. Voytek, National Institute of Standards and Technology—Manufacturing Extension Partnership, 100 Bureau Drive, Stop 4800, Gaithersburg, MD 20899–4800, 301–975–4614 (phone). In addition, written comments may be sent via e-mail to *kenneth.voytek@nist.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

Sponsored by NIST, the Manufacturing Extension Partnership (MEP) is a national network of locally based manufacturing extension centers working with small manufacturers to assist them improve their productivity, improve profitability and enhance their economic competitiveness. The information collected will provide the MEP with information regarding MEP Center performance regarding the delivery of technology, and business solutions to U.S.-based manufacturers. The collected information will assist in determining the performance of the MEP Centers at both local and national levels, provide information critical to monitoring and reporting on MEP programmatic performance, and assist management in policy decisions. Responses to the collection of information are mandatory per the regulations governing the operation of the MEP Program (15 CFR parts 290, 291, 292, and H.R. 1274—section 2). The information collected will include center inputs and activities including services delivered, clients served, center staff, quarterly expenses and revenues, partners and affiliates, strategic plan, operating plans, and client success stories. No confidentiality for information submitted is promised or provided.

II. Method of Collection

Web forms will be used to collect and analyze the wide range of information from the MEP Centers.

III. Data

OMB Control Number: 0693–0032.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 59.

Estimated Time per Response: 120 hours.

Estimated Total Annual Burden Hours: 7,080.

Estimated Total Annual Cost to Public: $389,400.

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 and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 24, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9–9832 Filed 4–29–09; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–703]

Granular Polytetrafluoroethylene Resin From Italy: Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On March 31, 2009, the Department of Commerce (''the Department'') published the final results of the administrative review of the antidumping duty order on granular polytetrafluoroethylene resin (''PTFE'') from Italy, covering the period August 1, 2006, through July 31, 2007. *See Granular Polytetrafluoroethylene Resin From Italy: Final Results of*

Antidumping Duty Administrative Review, 74 FR 14519 (March 31, 2009) (''*Final Results*''). We are amending the *Final Results* to correct ministerial errors in the calculation of the weighted average margin and the assessment rate applicable to entries by the respondent to this proceeding, Solvay Solexis S.p.A. and Solvay Solexis, Inc. (collectively, ''Solvay''), pursuant to section 751(h) of the Tariff Act of 1930, as amended (''the Act''), and 19 CFR 351.224(e).

EFFECTIVE DATE: April 30, 2009.

FOR FURTHER INFORMATION CONTACT: Yasmin Nair or Nancy Decker, at (202) 482–3813 or (202) 482–0196, respectively; AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On March 31, 2009, Solvay submitted a timely allegation of ministerial errors pursuant to 19 CFR 351.224(c)(1). First, Solvay alleged that the Department did not incorporate minor corrections from verification into U.S. duty expenses and U.S. brokerage expenses for individual U.S. sales observations. Second, Solvay alleged that the Department erred in its re–calculation of the research and development (''R&D'') expenses that pertain to Solvay's general and administrative (''G&A'') expense ratio. *See* Memorandum from Ernest Z. Gziryan, Senior Accountant, to Neal M. Halper, Director, Office of Accounting, ''Cost of Production and Constructed Value Calculation Adjustments for the Final Results – Solvay Solexis S.p.A.'' (March 23, 2009) at Attachment 5.

On April 1, 2009, the petitioner to this proceeding, E.I. DuPont de Nemours & Company (''petitioner''), submitted a rebuttal to Solvay's ministerial error allegations. The petitioner did not comment on the alleged errors in the individual sales observations. However, the petitioner argued that the Department should reject Solvay's allegation regarding R&D expenses because the alleged error is methodological, not ministerial, in nature. Moreover, the petitioner asserted that the Department did not err in the R&D expense re–calculation. The petitioner claimed that Solvay's proposed correction would understate the R&D expenses that are attributable to the merchandise under review.

Amended Final Results of Review

A ministerial error, as defined in section 751(h) of the Act, ''includes errors in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the Secretary considers ministerial.'' *See also* 19 CFR 351.224(f). After analyzing Solvay's allegation, we have determined, in accordance with section 751(h) of the Act and 19 CFR 351.224(e), that the Department made ministerial errors in the final results by not revising U.S. duty and brokerage expenses for the individual sales in question. However, for the allegation regarding the R&D expense portion of the G&A expense ratio, we find that Solvay's allegation is methodological, not ministerial, in nature. Thus, we have made no changes to the R&D expense portion of Solvay's G&A expenses. For additional explanation, *see* the Memorandum from PTFE Team to Susan Kuhbach, Director, Office 1: Ministerial Error Allegations (April 24, 2009).

Therefore, we are amending the final results of administrative review of PTFE from Italy for the period August 1, 2006, through July 31, 2007, to include the revised U.S. movement and brokerage expenses for the sales observations at issue. The revised weighted–average percentage dumping margin for Solvay is now 79.45 percent.

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 amended final results. For details on the assessment of antidumping duties on all appropriate entries, *see* the *Final Results*.

The Department intends to issue appropriate assessment instructions directly to CBP 15 days after the date of publication of the amended final results of the administrative review.

Cash Deposit Requirements

The following deposit rates will be effective retroactively on any entries made on or after March 31, 2009, the date of publication of the *Final Results*, for all shipments of PTFE from Italy entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate listed above for Solvay will be the rate established in the amended final results of this review, except if a rate is less than 0.5 percent, and therefore *de minimis*, the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less–than-fair–value (''LTFV'') investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 46.46 percent, the ''all others'' rate established in the LTFV investigation. *See Final Determination of Sales at Less Than Fair Value: Granular Polytetrafluoroethylene Resin From Italy*, 53 FR 26096 (July 11, 1988). These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

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 antidumping duties occurred, and in the subsequent assessment of double antidumping duties.

Notification to Interested Parties

This notice is also the reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). 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 the terms of an APO is a sanctionable violation.

Disclosure

We will disclose the calculations performed for these amended final results within five days of the date of publication of this notice to interested parties in accordance with 19 CFR 351.224(b).

We are issuing and publishing these results and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 24, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

[FR Doc. E9–10000 Filed 4–29–09; 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: Notice of Partial Rescission of the Fifth Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''Department'') is conducting an administrative review of the antidumping duty order on certain frozen fish fillets from the Socialist Republic of Vietnam (''Vietnam''). *See Notice of Antidumping Duty Order: Certain Frozen Fish Fillets From the Socialist Republic of Vietnam*, 68 FR 47909 (August 12, 2003) (''Order''). On September 30, 2008, the Department initiated an antidumping duty administrative review on certain frozen fish fillets from Vietnam. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 73 FR 56795 (September 30, 2008). The Department initiated this review with respect to 18 companies. The period of review is August 1, 2007, through July 31, 2008. The preliminary results of this administrative review are currently due no later than May 3, 2009. On October 30, 2008, Vinh Quang Fisheries Corporation withdrew its request for review. On December 22, 2008, Anvifish Co., Ltd. (''Anvifish'') withdrew its request for a review. On October 17, 2008, Petitioners [1] withdrew their request for review with respect to 12 companies, including Vinh Quang Fisheries Corporation. Following Anvifish's withdrawal, on December 23, 2008, Petitioners withdrew their request for review with respect to Anvifish.

EFFECTIVE DATE: April 30, 2009.

FOR FURTHER INFORMATION CONTACT: Alan Ray and Javier Barrientos, Office 9, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5403 and (202) 482–2243, respectively.

Partial Rescission of Review

The applicable regulation, 19 CFR 351.213(d)(1), states that if a party that requested an administrative review withdraws the request within 90 days of the publication of the notice of initiation of the requested review, the Secretary will rescind the review. Petitioners withdrew their review request with respect to 13 exporters of subject merchandise within the 90–day deadline, in accordance with 19 CFR 351.213(d)(1). Respondents Vinh Quang Fisheries Corporation and Anvifish also withdrew their respective requests for review within the 90–day deadline.

Therefore, we are partially rescinding this review with respect to the following 13 companies, because all requesting parities for these companies timely withdrew the requests for review: An Xuyen Co., Ltd.; Asia Commerce Fisheries Joint Stock Company (aka Acomfish JSC); Ben Tre Forestry Aquaproduct Import–Export Company (aka FAQUIMEX); Binh An Seafood Joint Stock Co.; Hiep Thanh Seafood Joint Stock Co.; Hung Vuong Corporation; Nam Viet Company Limited (aka NAVICO); Phuong Nam Co., Ltd.; Da Nang Seaproducts Import–Export Corporation (aka Da Nang or Seaprodex Danang); Southern Fishery Industries Company, Ltd. (aka South Vina); Thien Ma Seafood Co., Ltd.; Vinh Quang Fisheries Corporation; and Anvifish Co., Ltd.

Assessment Rates

The Department will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on all appropriate entries. For those companies for which this review has been rescinded and which have a separate rate from a prior segment of this proceeding, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(2). Accordingly, the Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice for the following companies: Binh An Seafood Joint Stock Co.; Phuong Nam Co., Ltd.; Da Nang or Seaprodex Danang Southern Fishery Industries Company, Ltd.; Vinh Quang Fisheries Corporation; and Anvifish Co., Ltd.

The Department cannot order liquidation for companies which, although they are no longer under review as a separate entity, may still be under review as part of the Vietnam–wide entity. Therefore, the Department cannot, at this time, order liquidation of entries for the following companies: An Xuyen Co., Ltd.; Acomfish JSC; FAQUIMEX; Hiep Thanh Seafood Joint Stock Co.; Hung Vuong Corporation; NAVICO; or Thien Ma Seafood Co., Ltd. The Department intends to issue liquidation instructions for the Vietnam–wide entities 15 days after publication of the final results of this review.

Notification to Importers

This notice serves as a final reminder to importers for whom this review is being rescinded, as of the publication date of this notice, 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.

Notification Regarding APOs

This notice also serves as a reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, 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.

This notice is issued and published in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: April 24, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–9999 Filed 4–29–09; 8:45 am]

BILLING CODE 3510–DS–S

[1] The Catfish Famers of America and individual U.S. catfish processors, America's Catch, Consolidated Catfish Companies, LLC dba Country Select Catfish, Delta Pride Catfish, Inc., Harvest Select Catfish, Inc., Heartland Catfish Company, Pride of the Pond, Simmons Farm Raised Catfish, Inc., and Southern Pride Catfish Company LLC (''Petitioners'').

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–904

Certain Activated Carbon From the People's Republic of China: Notice of Initiation of Changed Circumstances Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''Department'') has received information sufficient to warrant initiation of a changed circumstances review of the antidumping duty order on certain activated carbon from the People's Republic of China (''PRC''). Based upon a request filed by Hebei Foreign Trade and Advertising Corporation (''Hebei Foreign''), the Department is initiating a changed circumstances review to determine whether Hebei Shenglun Advertising and Exhibit Corporation (''Hebei Shenglun'') is the successor–in-interest to Hebei Foreign, a separate–rate respondent in the original investigation and first administrative review.

EFFECTIVE DATE: April 30, 2009.

FOR FURTHER INFORMATION CONTACT: Katie Marksberry, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: 202–482–7906.

SUPPLEMENTARY INFORMATION:

Background

On April 27, 2007, the Department published in the **Federal Register** an antidumping duty order on certain activated carbon from the PRC. *See Notice of Antidumping Duty Order: Certain Activated Carbon from the People's Republic of China*, 72 FR 20988 (April 27, 2007) (''*PRC Carbon Order*''). As part of the antidumping duty order on certain activated carbon from the PRC, Hebei Foreign received a separate rate of 67.14 percent. *Id.* at 20989. On February 24, 2009, Hebei Foreign filed a submission requesting that the Department conduct a changed circumstances review of the antidumping duty order on certain activated carbon from the PRC to confirm that Hebei Shenglun is the successor–in-interest to Hebei Foreign.[1] In its submission, Hebei Foreign provided information on the events leading to the creation of Hebei Shenglun and the transfer of assets from Hebei Foreign to Hebei Shenglun. Hebei Foreign also provided documentation relating to the agreement between Hebei Foreign and Hebei Shenglun to transfer assets. In addition, Hebei Foreign provided narrative explanation and some limited documentation relating to the ownership structure and management, organizational structure, customer base, supplier relationships and locations of both Hebei Foreign and Hebei Shenglun. As part of its February 24, 2009, submission, Hebei Foreign requested that the Department conduct an expedited review.[2]

Scope of the Order

The merchandise subject to this order is certain activated carbon. Certain activated carbon is a powdered, granular, or pelletized carbon product obtained by ''activating'' with heat and steam various materials containing carbon, including but not limited to coal (including bituminous, lignite, and anthracite), wood, coconut shells, olive stones, and peat. The thermal and steam treatments remove organic materials and create an internal pore structure in the carbon material. The producer can also use carbon dioxide gas (CO_2) in place of steam in this process. The vast majority of the internal porosity developed during the high temperature steam (or CO_2 gas) activated process is a direct result of oxidation of a portion of the solid carbon atoms in the raw material, converting them into a gaseous form of carbon.

The scope of this order covers all forms of activated carbon that are activated by steam or CO_2, regardless of the raw material, grade, mixture, additives, further washing or post–activation chemical treatment (chemical or water washing, chemical impregnation or other treatment), or product form. Unless specifically excluded, the scope of this order covers all physical forms of certain activated carbon, including powdered activated carbon (''PAC''), granular activated carbon (''GAC''), and pelletized activated carbon.

Excluded from the scope of the order are chemically activated carbons. The carbon–based raw material used in the chemical activation process is treated with a strong chemical agent, including but not limited to phosphoric acid, zinc chloride sulfuric acid or potassium hydroxide, that dehydrates molecules in the raw material, and results in the formation of water that is removed from the raw material by moderate heat treatment. The activated carbon created by chemical activation has internal porosity developed primarily due to the action of the chemical dehydration agent. Chemically activated carbons are typically used to activate raw materials with a lignocellulosic component such as cellulose, including wood, sawdust, paper mill waste and peat.

To the extent that an imported activated carbon product is a blend of steam and chemically activated carbons, products containing 50 percent or more steam (or CO_2 gas) activated carbons are within this scope, and those containing more than 50 percent chemically activated carbons are outside this scope. This exclusion language regarding blended material applies *only* to mixtures of steam and chemically activated carbons.

Also excluded from the scope are reactivated carbons. Reactivated carbons are previously used activated carbons that have had adsorbed materials removed from their pore structure after use through the application of heat, steam and/or chemicals.

Also excluded from the scope is activated carbon cloth. Activated carbon cloth is a woven textile fabric made of or containing activated carbon fibers. It is used in masks and filters and clothing of various types where a woven format is required.

Any activated carbon meeting the physical description of subject merchandise provided above that is not expressly excluded from the scope is included within this scope. The products subject to the order are currently classifiable under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheading 3802.10.00. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Initiation of Changed Circumstances Review

Pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (''Act''), the Department will conduct a changed circumstances review upon receipt of information concerning, or a request from an interested party for a review of, an antidumping duty order, which shows changed circumstances sufficient to warrant a review of the order. Additionally, section 751(b)(4) of the Act and 19 CFR 351.216(c) state that the Department shall not conduct a review

[1] See Letter from Garvey Schubert Barer, to the Department, regarding *Certain Activated Carbon from the People's Republic of China; Request for Changed Circumstances Review* (Case No. A-570-904) (February 24, 2009) (''Hebei Foreign's CCR Request'').

[2] Hebei Foreign filed a request for changed circumstances on November 7, 2008. The Department rejected that request because it did not contain sufficient evidence to initiate a changed circumstances review.

less than 24 months after the date of publication of the determination, in the absence of good cause. As noted above, Hebei Foreign filed its request for a changed circumstances review on February 24, 2009, over 36 months after the publication of the amended final determination and order. *See PRC Carbon Order*.

In accordance with 19 CFR 351.216(d), the Department has determined that the information submitted by Hebei Foreign constitutes sufficient evidence to conduct a change circumstances review. In a changed circumstances review involving a successor–in-interest determination, the Department typically examines several factors including, but not limited to, changes in: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See Certain Cut–to-Length Carbon Steel Plate from Romania: Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review*, 70 FR 22847 (May 3, 2005). While no single factor or combination of factors will necessarily be dispositive, the Department generally will consider the new company to be the successor to the predecessor if the resulting operations are essentially the same as those of the predecessor company. *See, e.g., Notice of Initiation of Antidumping Duty Changed Circumstances Review: Certain Forged Stainless Steel Flanges from India*, 71 FR 327 (January 4, 2006). Thus, if the record demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the predecessor company, the Department may assign the new company the cash deposit rate of its predecessor. *See, e.g., Fresh and Chilled Atlantic Salmon From Norway: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 64 FR 9979, 9980 (March 1, 1999).

Based on the information provided in its submission, Hebei Foreign has provided sufficient evidence to warrant a review to determine if Hebei Shenglun is the successor–in-interest to Hebei Foreign. Therefore, pursuant to section 751(b)(1) of the Act and 19 CFR 351.216(d), we are initiating a changed circumstances review. Although Hebei Foreign submitted documentation related to the transfer of assets to Hebei Shenglun and some limited information and documentation regarding the four factors that the Department considers in its successor–in-interest analysis, it did not provide complete supporting documentation or conclusive evidence for the four elements listed above. Accordingly, the Department has determined that it would be inappropriate to expedite this action by combining the preliminary results of review with this notice of initiation. See 19 CFR 351.221(c)(3)(ii). Thus, the Department is not issuing the preliminary results of its antidumping duty changed circumstances review at this time. *See, e.g., Notice of Initiation of Antidumping Duty Changed Circumstances Review: Certain Pasta From Turkey*, 74 FR 681 (January 7, 2009).

The Department will issue questionnaires requesting additional information for the review and will publish in the **Federal Register** a notice of the preliminary results of the antidumping duty changed circumstances review, in accordance with 19 CFR 351.221(b)(2) and (4), and 19 CFR 351.221(c)(3)(i). That notice will set forth the factual and legal conclusions upon which our preliminary results are based and a description of any action proposed. Pursuant to 19 CFR 351.221(b)(4)(ii), interested parties will have an opportunity to comment on the preliminary results of review. In accordance with 19 CFR 351.216(e), the Department will issue the final results of its antidumping duty changed circumstances review not later than 270 days after the date on which the review is initiated.

During the course of this antidumping duty changed circumstances review, we will not change the cash deposit requirements for the merchandise subject to review. The cash deposit will only be altered, if warranted, pursuant to the final results of this review.

This notice is published in accordance with sections 751(b)(1) and 777(i) of the Act and 19 CFR 351.216.

Dated: April 21, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–9998 Filed 4–29–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

(Docket 17–2009)

Foreign-Trade Zone 75—Phoenix, Arizona, Application for Expansion

An application has been submitted to the Foreign–Trade Zones Board (the Board) by the City of Phoenix, Arizona, grantee of FTZ 75, requesting authority to expand the zone project within the Phoenix Customs and Border Protection port of entry. The application was submitted pursuant to the provisions of the Foreign–Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 23, 2009.

FTZ 75 was approved on March 25, 1982 (Board Order 185, 47 FR 14931, 4/7/82) and expanded on July 2, 1993 (Board Order 647, 58 FR 37907, 7/14/93) and on February 27, 2008 (Board Order 1545, 73 FR 13531, 3/13/08). The zone project consists of four sites (448 acres total) in Phoenix: *Site 1* (338 acres) -- within the 550–acre Phoenix Sky Harbor Center and Sky Harbor International Airport's air cargo terminal located at Papago Freeway (Interstate 10) and Buckeye Road; *Site 2* (18 acres) -- within the central southwestern portion of the CC&F South Valley Industrial Center located near the intersection of 7th Street and Victory Street; *Site 3* (74 acres) -- Riverside Industrial Center located at 4747 West Buckeye Road; and, *Site 4* (18 acres) -- Santa Fe Business Park located between 47th Avenue and 45th Avenue.

The applicant is now requesting authority to expand the general–purpose zone to include the jet fuel storage and distribution system at and adjacent to the Phoenix Sky Harbor International Airport in Phoenix, Arizona (Proposed Site 5). The system (32.5 acres total) includes the off–airport terminal (7 tanks, 7.5 acres), airport terminal (5 tanks, 3.5 acres), subsurface pipeline (14.5 acres) and airport hydrant fueling system (7 acres). These facilities consist primarily of storage tanks, pipelines, pumps, valves, filters, meters and related equipment. The system is operated by Airport Fueling Facilities Corporation which is a consortium of airlines that service the airport. No specific manufacturing authority is being requested at this time. Such requests would be made to the Board on a case–by-case basis.

In accordance with the Board's regulations, Camille Evans of the FTZ staff is designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is [June 29, 2009]. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15–day period to [July 14, 2009].

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign–Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's website, which is accessible via www.trade.gov/ftz. For further information, contact Camille Evans at Camille_Evans@ita.doc.gov or (202) 482–2350.

Dated: April 23, 2009.

Andrew McGilvray,

Executive Secretary.

[FR Doc. E9–10002 Filed 4–29–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Materials Technical Advisory Committee; Notice of Partially Closed Meeting

The Materials Technical Advisory Committee will meet on May 14, 2009, 10 a.m., Herbert C. Hoover Building, Room 3884, 14th Street between Constitution & Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials and related technology.

Agenda:

Open Session

1. Opening Remarks and Introduction.
2. Presentation on recent activities in Chemical Sector Security.
3. Report on Chemical Weapons Convention/Biological Weapons Convention activities.
4. Report on recent Australia Group Regime Technical Experts Meeting and the recent Missile Technology Control Regime Meeting.
5. The Composite Working Group subteam working on 1C008, will discuss some issues associated with that ECCN.
6. Report on Composite Working Group and ECCN review subgroup.
7. Discussion on new criteria that BIS could use for evaluating when an item should be subject to Anti-Terrorism (AT) controls on the CCL including when decontrolled from a multilateral control regime, or to be used to evaluate items currently AT only controlled.
8. New business.
9. Public comments from teleconference and physical attendees.

Closed Session

10. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 sections 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yspringer@bis.doc.gov* no later than May 7, 2009.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the materials should be forwarded prior to the meeting to Ms. Springer via e-mail.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on October 1, 2008, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, that the portion of the meeting dealing with matters the premature disclosure of which would likely frustrate the implementation of a proposed agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 sections 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: April 23, 2009.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. E9–9837 Filed 4–29–09; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XO88

General Advisory Committee to the U.S. Section to the Inter-American Tropical Tuna Commission; Meeting Announcement

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

ACTION: Notice of public meeting.

SUMMARY: NMFS announces a meeting of the General Advisory Committee (GAC) to the U.S. Section to the Inter-American Tropical Tuna Commission (IATTC) on May 18, 2009. Meeting topics are provided under the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: The meeting will be held on May 18, 2009, from 9 a.m. to 5 p.m. (or until business is concluded), Pacific time.

ADDRESSES: The meeting will be held in the Large Conference Room (Room 370) at NMFS, Southwest Fisheries Science Center, 3333 North Torrey Pines Court, La Jolla, California, 92037-1023. Please notify Heidi Taylor (See **FOR FURTHER INFORMATION CONTACT**) prior to May 13, 2009, of your plans to attend the meeting, or interest in teleconference option.

FOR FURTHER INFORMATION CONTACT: Heidi Taylor, Southwest Region, NMFS at *heidi.taylor@noaa.gov*, or at (562) 980–4039.

SUPPLEMENTARY INFORMATION: In accordance with the Tuna Conventions Act, as amended, the Department of State has appointed a General Advisory Committee to the U.S. Section to the IATTC. The U.S. Section consists of four U.S. Commissioners to the IATTC and the representative of the Deputy Assistant Secretary of State for Oceans and Fisheries. The Advisory Committee supports the work of the U.S. Section in an advisory capacity with respect to U.S. participation in the work of the IATTC, with particular reference to the development of policies and negotiating positions pursued at meetings of the IATTC. NMFS, Southwest Region, administers the Advisory Committee in cooperation with the Department of State.

Meeting Topics

The General Advisory Committee to the U.S. Section to the IATTC will meet to receive and discuss information on: (1) 2008 and 2009 IATTC activities, (2) status of the stocks and status of the fishery in 2008, (3) recent and upcoming meetings of the IATTC and its working groups, (4) conservation and management measures for yellowfin and bigeye tuna for 2009 and beyond, measures to be taken in the absence of conservation and management measures, (5) regulation of U.S. vessels if no IATTC conservation and management measures for 2009 and beyond are adopted, (6) exemption for small U.S. purse seine vessels, (7) measures to be taken in cases of non-compliance with the IATTC's conservation and management measures, (8) management of fishing

capacity, (9) measures to address bycatch (such as juvenile tunas, sea turtles, seabirds, and sharks), (10) financial issues pertinent to the financial solvency of the IATTC, (11) IATTC cooperation with other regional fishery management organizations, (12)implementing legislation for the Antigua Convention, (13) administrative matters pertaining to the General Advisory Committee, and other issues as they arise.

Special Accommodations

The meeting location is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Heidi Taylor at (562) 980-4039 by May 13, 2009.

Dated: April 23, 2009.

Kristen C. Koch,

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

[FR Doc. E9–9824 Filed 4–29–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Cost Sharing Cooperative Agreement Applications

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice of solicitation for cost sharing cooperative agreement applications.

SUMMARY: The Defense Logistics Agency (DLA) executes the DoD Procurement Technical Assistance Program by awarding cost sharing cooperative agreements to assist states, local governments, private nonprofit organizations, tribal organizations and economic enterprises in establishing or maintaining procurement technical assistance centers (PTACs) pursuant to Chapter 142 of title 10, United States Code. These centers help business firms market their goods and services to the Department of Defense (DoD), other federal agencies, and state and local governments. The Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (Pub. L. 110–329) provided funds for the continuance of the program in FY 2009, requiring DoD to make available not less than $3.6 million for applicants that meet the definition of 10 U.S.C 2411 (1) (D).

At this time, limited additional funds are available and applications for additional new programs can be accepted. Therefore, notice is given that a new Solicitation for Cooperative Agreement Applications (SCAA) will be issued seeking applications for programs from eligible entities meeting the definition listed in Section II, paragraph 18.d. (Economic Enterprise) or paragraph 18.e. (Tribal Organization) of the SCAA. Further, applications will only be accepted from eligible entities that propose programs that will provide service to areas that are not currently receiving service from an existing program. The two existing PTACs service the following four Bureau of Indian Affairs Regions: Alaska, Eastern Oklahoma, Northwest, and Southern Plains. The provision prohibiting applications proposing to service areas currently covered by an existing program is absolute, and the provisions of Paragraph D. Duplicate Coverage of Section ''V'', of the SCAA do not apply. Applications received from entities not meeting the definitions listed in Section II, paragraph 18.d. (Economic Enterprise) or 18.e. (Tribal Organization) of the SCAA and/or proposing areas receiving service from an existing program will be neither accepted nor evaluated. Otherwise, the provisions of Paragraph D. Duplicate Coverage of Section ''V'', of the SCAA will apply when any unacceptable duplicate coverage is proposed.

The SCAA will be available for review on or about April 30, 2009 on the Internet *Web site: http://www.dla.mil/db/scaa2009.pdf.* Printed copies are not available for distribution. Applications must be submitted to DLA by 5 p.m., Eastern Time, on June 12, 2009. A notice will be posted at Grants.gov announcing the SCAA with details on submitting an application.

FOR FURTHER INFORMATION CONTACT: Ms. Christina Young at (703) 767–1656.

April 24, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–9909 Filed 4–29–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meeting cancellation.

SUMMARY: The Department of Defense published a closed meeting notice of Defense Science Board on April 6, 2009 (74 FR 15461). The Defense Science Board task force on Joint Professional Military Education meeting scheduled for April 28–29, 2009; at SAIC, 4001 N. Fairfax Drive, Arlington, VA 22203, was cancelled.

FOR FURTHER INFORMATION CONTACT: CDR Kenneth Spurlock, Navy Military Assistant, Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301–3140, via e-mail at *Kenneth.spurlock@osd.mil*, or via phone at (703) 571–0083.

April 27, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–9903 Filed 4–29–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency National Defense Intelligence College Board of Visitors Closed Meeting

AGENCY: Department of Defense, Defense Intelligence Agency, National Defense Intelligence College.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92–463, as amended by section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the Defense Intelligence Agency National Defense Intelligence College Board of Visitors has been scheduled as follows:

DATES: Tuesday, June 2, 2009 (8 a.m. to 5 p.m.) and Wednesday, June 3, 2009 (8 a.m. to 12 p.m.).

ADDRESSES: National Defense Intelligence College, Washington, DC 20340–5100.

FOR FURTHER INFORMATION CONTACT: Mr. A. Denis Clift, President, DIA National Defense Intelligence College, Washington, DC 20340–5100 (202/231–3344).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed. The Board will discuss several current critical intelligence issues and advise the Director, DIA, as to the successful accomplishment of the mission assigned to the National Defense Intelligence College.

Dated: April 24, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–9913 Filed 4–29–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2009–OS–0059]

Privacy Act of 1974; System of Records

AGENCY: Defense Threat Reduction Agency, DoD.

ACTION: Notice to amend a System of Records.

SUMMARY: Defense Threat Reduction Agency is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on June 1, 2009 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Freedom of Information and Privacy Office, Defense Threat Reduction Agency, 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6201.

FOR FURTHER INFORMATION CONTACT: Ms. Brenda Carter at (703) 767–1771.

SUPPLEMENTARY INFORMATION: The Defense Threat Reduction Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record systems being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: April 27, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

HDTRA 007

SYSTEM NAME:

Security Services (March 8, 2006, 71 FR 11593).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with ''Primary location: Security and Counterintelligence Directorate, Defense Threat Reduction Agency, 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6201.

SECONDARY LOCATIONS:

Albuquerque Operations, Defense Threat Reduction Agency, 1680 Texas Street, SE, Kirtland Air Force Base, Albuquerque, NM 87117–5669.

Security and Counterintelligence Field Detachment Travis, Defense Threat Reduction Agency, 510 Hickman Avenue, Travis Air Force Base, CA 94535.

Security and Counterintelligence Detachment, Europe, Unit 29623, Box 0034, APO, AE 09096–0034; *Physical Address:* Nathan Hale Depot, GEB 4107, Scheppalle 95, 64295 Darmstadt, Germany.''

* * * * *

STORAGE:

Delete entry and replace with ''Electronic storage media and paper records.''

RETRIEVABILITY:

Delete entry and replace with ''By individual's last name and Social Security Number (SSN).''

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with ''Computer records on individuals are moved to historical area of database files upon termination of an individual's affiliation with DTRA; personnel security files are retained for two years at which point the Classified Information Nondisclosure Agreement form (SF 312) is mailed to National Archives Repository and all other information is destroyed. Manual records or conference attendees, visitors, and visit certifications to other agencies are maintained for two years and destroyed.''

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Chief, Security and Counterintelligence Directorate, Defense Threat Reduction Agency, 8725 John J. Kingman Drive, Ft. Belvoir, VA 22060–6201.

Written requests for information should contain the full name, home address, Social Security Number (SSN), date and place of birth.

For personal visits, the individual must be able to provide identification showing full name, date and place of birth, and their Social Security Number (SSN).''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Chief, Security and Counterintelligence Directorate, Defense Threat Reduction Agency, 8725 John J. Kingman Drive, Ft. Belvoir, VA 22060–6201.

Written requests for information should contain the full name, home address, Social Security Number (SSN), date and place of birth.

For personal visits, the individual must be able to provide identification showing full name, date and place of birth, and their Social Security Number (SSN).''

* * * * *

HDTRA 007

SYSTEM NAME:

Security Services.

SYSTEM LOCATION(S):

Primary location: Security and Counterintelligence Directorate, Defense Threat Reduction Agency, 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6201.

Secondary locations: Albuquerque Operations, Defense Threat Reduction Agency, 1680 Texas Street, SE., Kirtland Air Force Base, Albuquerque, NM 87117–5669.

Security and Counterintelligence Field Detachment Travis, Defense Threat Reduction Agency, 510 Hickman Avenue, Travis Air Force Base, CA 94535.

Security and Counterintelligence Detachment, Europe, Unit 29623, Box 0034, APO, AE 09096–0034; Physical Address: Nathan Hale Depot, GEB 4107, Scheppalle 95, 64295 Darmstadt, Germany.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; E.O. 10450, Security Requirements for Government Employment; E.O. 12065, National Security Information; The Internal Security Act of 1950 (Pub. L. 831), Section 21, as amended and codified at 50 U.S.C. 797; The Atomic Energy Act of 1954, Section 145; and E.O. 9397 (SSN).

PURPOSE(S):

For use by officials and employees of the Defense Threat Reduction Agency in the performance of their official duties related to determining the eligibility of individuals for access to classified information, access to buildings and facilities, or to conferences over which DTRA has security responsibility.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To officials and employees of Government contractors and other Government agencies in the performance of their official duties related to the screening and selection of individuals for security clearances and/or special authorizations, access to facilities or attendance at conferences.

The 'Blanket Routine Uses' published at the beginning of DTRA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media and paper records.

RETRIEVABILITY:

By individual's last name and Social Security Number (SSN).

SAFEGUARDS:

The computer facility and terminals are located in restricted areas accessible only to authorized personnel. Manual records and computer printouts are available only to authorized persons with an official need to know. Buildings are protected by security forces and an electronic security system.

RETENTION AND DISPOSAL:

Computer records on individuals are moved to historical area of database files upon termination of an individual's affiliation with DTRA; personnel security files are retained for two years at which point the Classified Information Nondisclosure Agreement form (SF 312) is mailed to National Archives Repository and all other information is destroyed. Manual records or conference attendees, visitors, and visit certifications to other agencies are maintained for two years and destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Security and Counterintelligence Directorate, Defense Threat Reduction Agency, 8725 John J. Kingman Drive, Ft. Belvoir, VA 22060–6201.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Chief, Security and Counterintelligence Directorate, Defense Threat Reduction Agency, 8725 John J. Kingman Drive, Ft. Belvoir, VA 22060–6201.

Written requests for information should contain the full name, home address, Social Security Number (SSN), date and place of birth.

For personal visits, the individual must be able to provide identification showing full name, date and place of birth, and their Social Security Number (SSN).

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Chief, Security and Counterintelligence Directorate, Defense Threat Reduction Agency, 8725 John J. Kingman Drive, Ft. Belvoir, VA 22060–6201.

Written requests for information should contain the full name, home address, Social Security Number (SSN), date and place of birth.

For personal visits, the individual must be able to provide identification showing full name, date and place of birth, and their Social Security Number (SSN).

CONTESTING RECORD PROCEDURES:

The DTRA rules for accessing records and for contesting contents and appealing initial agency determinations are published in DTRA Instruction 5400.11B; 32 CFR part 318; or may be obtained from the Chief, Security and Counterintelligence Directorate, Defense Threat Reduction Agency, 8725 John J. Kingman Drive, Ft. Belvoir, VA 22060–6201.

RECORD SOURCE CATEGORIES:

Information is extracted from military and civilian personnel records, investigative files, and voluntarily submitted by the individual. Other Government agencies, law enforcement officials and contractors may provide the same data.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

An exemption rule for this system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 318. For additional information contact the system manager.

[FR Doc. E9–9904 Filed 4–29–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2009–OS–0056]

Privacy Act of 1974; System of Records

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice to amend a System of Records.

SUMMARY: The Defense Logistics Agency is proposing to amend a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The proposed action will be effective without further notice on June 1, 2009 unless comments are received which would result in a contrary determination.

ADDRESSES: Chief Privacy and FOIA Officer, Headquarters Defense Logistics Agency, *Attn:* DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis Oleinick at (703) 767–6194.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency's system of record notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the Federal Register and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendment is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems reports.

Dated: April 27, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S180.15

SYSTEM NAME:

DLA Hometown News Releases (June 5, 2006, 71 FR 32324).

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with ''S190.19''

* * * * *

SYSTEM LOCATION:

Delete entry and replace with ''Headquarters, Defense Logistics Agency, Public Affairs Office, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060–6221, and the Public Affairs Offices of the Defense Logistics Agency (DLA) field activities. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.''

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CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Information is submitted electronically using the Joint Hometown News Service Defense Media Activity webpage; and includes name, local address, last five digits of Social Security Number, branch of service, status, rank, pay grade, gender, newsworthy event, marital status, names and addresses of relatives (parents, stepparents, guardians, aunts/uncles, grandparents, and adult siblings), present unit of assignment, job title, years of military service, education data, and photographs.''

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STORAGE:

Delete entry and replace with ''Records are maintained on electronic storage media.''

* * * * *

SAFEGUARDS:

Delete entry and replace with ''Records are maintained in a controlled facility. Physical entry is restricted by the use of locks, guards, and is accessible only to authorized personnel. Access to computerized data is restricted by passwords, which are changed periodically. Data sent by DLA Public Affairs Officers to the Army and Air Force Hometown News Service is via e-mail to an authorized DoD address. Access to records is limited to person(s) responsible for servicing the record in performance of their official duties and who are properly screened and cleared for need-to-know.''

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SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Director, DLA Public Affairs Office, Headquarters, Defense Logistics Agency, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060–6221, and the Heads of the Public Affairs Offices within each DLA field activity. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Privacy Act Office, Defense Logistics Agency, *Attn:* DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221, or to the Privacy Act Office of the DLA field activity where assigned. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

Inquiry must contain the subject individual's full name, current address, and telephone number.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Privacy Act Office, Defense Logistics Agency, *Attn:* DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221, or to the Privacy Act Office of the DLA field activity where assigned. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

Inquiry must contain the subject individual's full name, current address, and telephone number.''

CONTESTING RECORD PROCEDURES:

Delete entry and replace with ''The DLA rules for accessing records, for contesting contents and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the Privacy Act Office, Headquarters, Defense Logistics Agency, *Attn:* DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.''

* * * * *

S190.19

SYSTEM NAME:

DLA Hometown News Releases.

SYSTEM LOCATION:

Headquarters, Defense Logistics Agency, Public Affairs Office, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060–6221, and the Public Affairs Offices of the Defense Logistics Agency (DLA) field activities. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DLA military and civilian employees who request a Hometown News Release.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information is submitted electronically using the Joint Hometown News Service Defense Media Activity webpage; and includes name, local address, last five digits of Social Security Number, branch of service, status, rank, pay grade, gender, newsworthy event, marital status, names and addresses of relatives (parents, stepparents, guardians, aunts/uncles, grandparents, and adult siblings), present unit of assignment, job title, years of military service, education data, and photographs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 USC 136, Under Secretary of Defense for Personnel and Readiness; and E.O. 9397 (SSN).

PURPOSE(S):

Information is collected and maintained for the purpose of distributing information on activities and accomplishments of DLA military and civilian personnel to hometown newspapers and broadcast stations throughout the United States using the Army and Air Force Hometown News Service. Release of this information is done with the individual's full cooperation and consent.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information is released to hometown newspapers and broadcast stations throughout the United States using the Army and Air Force Hometown News Service for the purpose of showcasing the activities and accomplishments of the DLA military or civilian member.

The DoD ''Blanket Routine Uses'' apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on electronic storage media.

RETRIEVABILITY:

Records are retrieved by individual's name.

SAFEGUARDS:

Records are maintained in a controlled facility. Physical entry is restricted by the use of locks, guards, and is accessible only to authorized personnel. Access to computerized data is restricted by passwords, which are changed periodically. Data sent by DLA Public Affairs Officers to the Army and Air Force Hometown News Service is via e-mail to an authorized DoD address. Access to records is limited to person(s) responsible for servicing the record in performance of their official duties and who are properly screened and cleared for need-to-know.

RETENTION AND DISPOSAL:

Records are destroyed after 90 days.

SYSTEM MANAGER(S) AND ADDRESS:

Director, DLA Public Affairs Office, Headquarters, Defense Logistics Agency, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060–6221, and the Heads of the Public Affairs Offices within each DLA field activity. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Privacy Act Office, Defense Logistics Agency, *Attn:* DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221, or to the Privacy Act Office of the DLA field activity where assigned. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

Inquiry must contain the subject individual's full name, current address, and telephone number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Privacy Act Office, Defense Logistics Agency, *Attn:* DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221, or to the Privacy Act Office of the DLA field activity where assigned. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

Inquiry must contain the subject individual's full name, current address, and telephone number.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the Privacy Act Office, Headquarters, Defense Logistics Agency, *Attn:* DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

Information is obtained from the individuals record.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E9–9905 Filed 4–29–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2009–OS–0058]

Privacy Act of 1974; System of Records

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice to amend a System of Records.

SUMMARY: The Defense Logistics Agency is proposing to amend two system of records notices in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The proposed action will be effective without further notice on June 1, 2009 unless comments are received which would result in a contrary determination.

ADDRESSES: Chief Privacy and FOIA Officer, Headquarters Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221

FOR FURTHER INFORMATION CONTACT: Mr. Lewis Oleinick at (703) 767–6194.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency's system of record notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems reports.

Dated: April 27, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S500.40

SYSTEM NAME:

DLA Security Force and Staff Records (August 16, 2007, 72 FR 46043).

CHANGES:

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AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; Section 21 of the Internal Security Act of 1950 (50 U.S.C. 797); 18 U.S.C. 499, Military, Naval, or Official Passes; 18 U.S.C. 701, Official Badges, Identification Cards, Other Insignia; 18 U.S.C. 716, Police Badges; DOD Instructions 5200.8, Security of Military Installations and Resources; 10 U.S.C. 1580, Emergency Essential Personnel, designation; 10 U.S.C. 1585, Carrying of Firearms; DOD 5210.56, Use of Deadly Force and the Carrying of Firearms by DOD Personnel Engaged in Law Enforcement and Security Duties; CJCSI 3121.01B, Standing Rules of Engagement/Standing rules for the Use of Force for US Forces; 10 U.S.C. 1593, Uniform allowance: civilian employees; and E.O. 9397 (SSN).''

* * * * *

RETRIEVABILITY:

Delete entry and replace with ''Records are retrieved by individual's name, Social Security Number, shield or credential number.''

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Program Manager, Law Enforcement Operations, Headquarters, Defense Logistics Agency, Office of Public Safety, 8725 John J. Kingman Road, Suite 3533, Fort Belvoir, VA 22060–6220, and the Security Managers within the DLA field activity responsible for the operation of security forces and staff at the DLA field activity.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Inquiry should contain subject individual's full name, Social Security

Number, and the DLA activity where employed.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about them contained in this system of records should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Inquiry should contain subject individual's full name, Social Security Number, and the DLA activity where employed.''

CONTESTING RECORD PROCEDURES:

Delete entry and replace with ''The DLA rules for accessing records, for contesting contents, and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.''

RECORD SOURCE CATEGORIES:

Delete entry and replace with ''The individual, DLA Security Managers, Security Staff, Security Force Supervisors, and training and educational institutions.''

* * * * *

S500.40

SYSTEM NAME:

DLA Security Force and Staff Records.

SYSTEM LOCATION:

Public Safety and Security Office, Headquarters, Defense Logistics Agency, 8725 John J. Kingman Road, Suite 3533, Fort Belvoir, VA 22060–6220 and the Public Safety and Security Offices of the DLA Field Activities. Addresses may be obtained from the System manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Defense Logistics Agency (DLA) security and investigations personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain individual's name, Social Security Number (SSN), date of birth, home address, telephone number, emergency notification data, driver's license number and expiration date, security clearance, weapons qualification, education and training data, professional certifications, issuance and receipt of property and equipment (uniforms, shields, credentials, weapons, ammunition), shift assignments, and related papers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; Section 21 of the Internal Security Act of 1950 (50 U.S.C. 797); 18 U.S.C. 499, Military, Naval, or Official Passes; 18 U.S.C. 701, Official Badges, Identification Cards, Other Insignia; 18 U.S.C. 716, Police Badges; DOD Instruction 5200.8, Security of Military Installations and Resources; 10 U.S.C. 1580, Emergency Essential Personnel, designation; 10 U.S.C. 1585, Carrying of Firearms; DOD 5210.56, Use of Deadly Force and the Carrying of Firearms by DOD Personnel Engaged in Law Enforcement and Security Duties; CJCSI 3121.01B, Standing Rules of Engagement/Standing Rules for the Use of Force for US Forces; 10 U.S.C. 1593, Uniform allowance: civilian employees; and E.O. 9397 (SSN).

PURPOSE(S):

Information is maintained and used by DLA Security Managers, Security and Public Safety staffs, and Security Force Supervisors to provide data concerning the professional qualifications, training requirements, and health and readiness of Security Force personnel at DLA Headquarters and field activities. Records are also used for identification and emergency notification in case of accident or casualty; to maintain control and accountability of property (*i.e.* uniforms, shields, credentials, weapons, ammunition, and equipment); to ensure proper training; to develop schedules and procedures to improve efficiency. Records are used to determine if an individual is qualified in the use of firearms and vehicles and for security clearance to handle classified information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To Federal, state or local law enforcement agencies for training or assistance in police or security operations.

To local hospitals and medical personnel for emergency treatment in case of accident or casualty.

To Federal and non-federal schools, academies, and similar institutions for training or certification purposes.

To Federal, state, or local disaster relief agencies for mutual aid.

The DoD ''Blanket Routine Uses'' also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored on paper and/or on electronic storage media.

RETRIEVABILITY:

Records are retrieved by individual's name, Social Security Number, shield or credential number.

SAFEGUARDS:

Records are maintained in areas accessible only to DLA Headquarters and field activities security supervisory and staff personnel who use the records to perform their duties. All records are maintained on closed military installations with security force personnel performing installation access control and random patrols. Common Access Cards and personal identification numbers are used to authenticate authorized desktop and laptop computer users. Computer servers are scanned quarterly or monthly to assess system vulnerabilities. Systems security updates are accomplished daily. The computer files are password protected with access restricted to authorized users with a need for the information. Records are secured in locked or guarded buildings, locked offices, or locked cabinets during non duty hours, with access restricted during duty hours to authorized users with a need for the information.

RETENTION AND DISPOSAL:

Records are destroyed after 1 year, when no longer needed, superseded or obsolete, or upon termination of record subject, as applicable.

SYSTEM MANAGER(S) AND ADDRESS:

Program Manager, Law Enforcement Operations, Headquarters, Defense Logistics Agency, Office of Public Safety, 8725 John J. Kingman Road, Suite 3533, Fort Belvoir, VA 22060–6220, and the Security Managers within the DLA field activity responsible for the operation of security forces and staff at the DLA field activity.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Inquiry should contain subject individual's full name, Social Security Number, and the DLA activity where employed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about them contained in this system of records should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Inquiry should contain subject individual's full name, Social Security Number, and the DLA activity where employed.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents, and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

The individual, DLA Security Managers, Security Staff, Security Force Supervisors, and training and educational institutions.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

S500.43

SYSTEM NAME:

Firearms Registration Records (June 8, 1999, 64 FR 30494).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with ''Defense Logistics Agency field activities. Addresses may be obtained from the system manager.''

* * * * *

SAFEGUARDS:

Delete entry and replace with ''Records are maintained in areas accessible only to DLA Headquarters and field activities security supervisory and staff personnel who use the records to perform their duties. All records are maintained on closed military installations with security force personnel performing installation access control and random patrols. Common Access Cards and personal identification numbers are used to authenticate authorized desktop and laptop computer users. Computer servers are scanned quarterly or monthly to assess system vulnerabilities. Systems security updates are accomplished daily. The computer files are password protected with access restricted to authorized users with a need for the information. Records are secured in locked or guarded buildings, locked offices, or locked cabinets during non duty hours, with access restricted during duty hours to authorized users with a need for the information.''

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Security managers within the DLA field activity responsible for the operation of security forces and staff at the DLA field activity.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Inquiry should contain subject individual's full name, Social Security Number, home address, and location of DLA installation where firearm was registered.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about them contained in this system of records should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Inquiry should contain subject individual's full name, current address and telephone numbers of the individual.''

CONTESTING RECORD PROCEDURES:

Delete entry and replace with ''The DLA rules for accessing records, for contesting contents, and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.''

RECORD SOURCE CATEGORIES:

Delete entry and replace with ''The individual, security and police force personnel.''

* * * * *

S500.43

SYSTEM NAME:

Firearms Registration Records.

SYSTEM LOCATION:

Defense Logistics Agency field activities. Addresses may be obtained from the system manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals required to register personal firearms with the Defense Logistics Agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

The file includes name, addresses, Social Security Number, and telephone numbers. The file also includes firearm registration forms, and other documents relating to registration of privately owned firearms.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 21 of the Internal Security Act 1950 (50 U.S.C. 797, et seq.); DoD Instruction 5200.8, Security of DOD Installations and Resources; DOD Directive 5105.22, Defense Logistics Agency; and E.O. 9397 (SSN).

PURPOSE(S):

Information is used by security officers and police force personnel to ensure proper maintenance and safekeeping of privately owned firearms by personnel residing on DLA controlled premises or who are required to register firearms with DLA. Records may also be used to identify the owner of a particular firearm.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD ''Blanket Routine Uses'' also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored on paper and/or on electronic storage media.

RETRIEVABILITY:

Records are retrieved by subject individual's name or Social Security Number (SSN).

SAFEGUARDS:

Records are maintained in areas accessible only to DLA Headquarters and field activities security supervisory and staff personnel who use the records to perform their duties. All records are maintained on closed military

installations with security force personnel performing installation access control and random patrols. Common Access Cards and personal identification numbers are used to authenticate authorized desktop and laptop computer users. Computer servers are scanned quarterly or monthly to assess system vulnerabilities. Systems security updates are accomplished daily. The computer files are password protected with access restricted to authorized users with a need for the information. Records are secured in locked or guarded buildings, locked offices, or locked cabinets during non duty hours, with access restricted during duty hours to authorized users with a need for the information.

RETENTION AND DISPOSAL:

Destroy 6 months after cancellation of registration or departure of the registrant from the jurisdiction of the registering activity.

SYSTEM MANAGER(S) AND ADDRESS:

Security managers within the DLA field activity responsible for the operation of security forces and staff at the DLA field activity.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Inquiry should contain subject individual's full name, Social Security Number, home address, and location of DLA installation where firearm was registered.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about them contained in this system of records should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Inquiry should contain subject individual's full name, current address and telephone numbers of the individual.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents, and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

The individual, security and police force personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E9–9906 Filed 4–29–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2009–OS–0060]

Privacy Act of 1974; System of Records

AGENCY: Defense Contract Audit Agency, DoD.

ACTION: Notice to delete a System of Records.

SUMMARY: The Defense Contract Audit Agency (DCAA) proposes to delete a system of records notice from its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on June 1, 2009 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to Headquarters, Defense Contract Audit Agency, Information and Records Management Branch, 8725 John J. Kingman Road, Suite 2135, Fort Belvoir, VA 22060–6219.

FOR FURTHER INFORMATION CONTACT: Defense Contract Audit Agency Privacy Adviser at (703) 767–1022.

SUPPLEMENTARY INFORMATION: The Defense Contract Audit Agency (DCAA) systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The Defense Contract Audit Agency proposes to delete a system of records notice from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems reports.

Dated: April 24, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

RDCAA 201.1

SYSTEM NAME:

Individual Access Files (November 20, 1997, 62 FR 62003).

Reason: The Defense Contract Audit Agency no longer issues Auditor Credential Cards or Identification Cards to employees. Because these Identification Cards are no longer issued by the Agency, system notice RDCAA 201.1 is not needed and should be deleted.

[FR Doc. E9–9914 Filed 4–29–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2009–OS–0057]

Privacy Act of 1974; System of Records

AGENCY: Defense Security Service, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The Defense Security Service proposes to alter a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The alteration changes the name and location of the system and adds one additional purpose for how the records are used.

DATES: The proposed action will be effective without further notice on June 1, 2009 unless comments are received which would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Defense Security Service, Office of FOIA/PA, 1340 Braddock Place, Alexandria, VA 22314–1651.

FOR FURTHER INFORMATION CONTACT: Mr. Leslie R. Blake at (703) 325–9450.

SUPPLEMENTARY INFORMATION: The Defense Security Service notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above or online at *http://www.dss.mil.*

The proposed system report, as required by 5 U.S.C. 552a (r), of the Privacy Act of 1974, as amended, was submitted on April 22, 2009, to the House Committee on Oversight and Government Reform, the Senate

Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: April 27, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

V5–01

SYSTEM NAME:

Personnel Security Investigative File Automation Subsystem (August 17, 1999, 64 FR 44704).

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with ''Investigative Records Repository.''

SYSTEM LOCATION:

Delete entry and replace with ''Defense Security Service, P.O. Box 168, 1137 Branchton Road, Boyers, PA 16020–0168.''

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 615, Armed Forces, Information furnished to selection boards; E.O. 10450, Security Requirements for Government Employment; DoD Directive 5105.42, Defense Security Service; DoD Directive 5200.2, Department of Defense Personnel Security Program; DoD Directive 5200.27 (Sections IV A and B), Acquisition of Information Concerning Persons and Organizations not Affiliated with the Department of Defense; DoD Directive 5220.6, Defense Industrial Personnel Security Clearance Program Review; DoD Directive 5220.28, Application of Special Eligibility and Clearance Requirements in the SIOP–ESI Program for Contractor Employees, and 18 U.S.C. 3056, Powers and Duties of the Secret Service and E.O. 9397 (SSN).''

PURPOSE(S):

Delete entry and replace with ''To ensure that the acceptance or retention of persons in sensitive DoD positions or granting individuals including those employed in defense industry access to classified information is clearly consistent with national security.

To determine the loyalty, suitability, eligibility, and general trustworthiness of individuals for access to defense information and facilities.

To determine the eligibility and suitability of individuals for entry into and retention in the Armed Forces.

To provide information pertinent to the protection of persons under the provisions of 18 U.S.C. 3056, Powers and Duties of the Secret Service.

For use in criminal law enforcement investigations, including statutory violations and counterintelligence as well as counterespionage and other security matters.

For use in military boards selecting military members for promotion to grades above 0–6.''

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Defense Security Service, P.O. Box 168, 1137 Branchton Road, Boyers, PA 16020–0168.''

* * * * *

NOTIFICATION PROCEDURES:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should send written inquiries to the Defense Security Service, Office of FOIA and PA, 1340 Braddock Place, Alexandria, VA 22314–1615.

A request for this information must contain the full name and Social Security Number of the subject individual, along with the address where the information is to be returned.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system must send written signed inquiries to Defense Security Service, Privacy Act Branch, 938 Elkridge Landing Road, Linthicum, MD 21090.

A request for information must contain the full name and Social Security Number of the subject individual and address where the records are to be returned.''

* * * * *

V5–01

SYSTEM NAME:

Investigative Records Repository.

SYSTEM LOCATION:

Defense Security Service, P.O. Box 168, 1137 Branchton Road, Boyers, PA 16020–0168.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military personnel who are active duty; applicants for enlistment or appointment; members of Reserve units; National guardsmen; DoD civilian personnel who are paid from appropriated funds; industrial or contractor personnel who are working in private industry in firms which have contracts involving access to classified DoD information or installations; Red Cross personnel and personnel paid from nonappropriated funds who have DoD affiliation; Reserve Officers' Training Corps (ROTC) cadets; former military personnel; and individuals residing on, have authorized official access to, or conducting or operating any business or other functions at any DoD installation or facility.

CATEGORIES OF RECORDS IN THE SYSTEM:

Official Reports of Investigation (ROIs) prepared by DSS or other DoD, federal, state, or local official investigative activities; industrial security administrative inquiries (AISs). Attachments to ROIs or AISs including exhibits, subject or interviewee statements, police records, medical records, credit bureau reports, employment records, education records, release statements, summaries of, or extracts from other similar records or reports.

Case control and management documents which are not reports of investigation, but which serve as the basis for investigation, or which serve to guide and facilitate investigative activity, including documents providing the data to open and conduct the case; and documents initiated by the subject.

DSS file administration and management documents accounting for the disclosure of, control of, and access to a file.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 615, Armed Forces, Information furnished to selection boards; E.O. 10450, Security Requirements for Government Employment; DoD Directive 5105.42, Defense Security Service; DoD Directive 5200.2, Department of Defense Personnel Security Program; DoD Directive 5200.27 (Sections IV A and B), Acquisition of Information Concerning Persons and Organizations not Affiliated with the Department of Defense; DoD Directive 5220.6, Defense Industrial Personnel Security Clearance Program Review; DoD Directive 5220.28, Application of Special Eligibility and Clearance Requirements in the SIOP–ESI Program for Contractor Employees, and 18 U.S.C. 3056, Powers and Duties of the Secret Service and E.O. 9397 (SSN).

PURPOSE(S):

To ensure that the acceptance or retention of persons in sensitive DoD positions or granting individuals including those employed in defense industry access to classified information is clearly consistent with national security.

To determine the loyalty, suitability, eligibility, and general trustworthiness of individuals for access to defense information and facilities.

To determine the eligibility and suitability of individuals for entry into and retention in the Armed Forces.

To provide information pertinent to the protection of persons under the provisions of 18 U.S.C. 3056, Powers and Duties of the Secret Service.

For use in criminal law enforcement investigations, including statutory violations and counterintelligence as well as counterespionage and other security matters.

For use in military boards selecting military members for promotion to grades above 0–6.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

For maintenance and use by the requesting activity when collected during reciprocal investigations conducted for other DoD and federal investigative elements.

For dissemination to federal agencies or other DoD components when information regarding personnel security matters is reported by Information Summary Report.

The 'Blanket Routine Uses' published at the beginning of DSS' compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic media to include disk, tape and microfilm. Some paper records may still exist on cases which have not yet been converted to magnetic media and on records containing classified information.

RETRIEVABILITY:

Information is retrieved Social Security Number (SSN).

SAFEGUARDS:

Completed investigative records are stored in secured areas accessible only to authorized DSS personnel who have a need-to-know. Paper records are maintained in safes and locked rooms and magnetic media records are protected from access by 'fail-safe' system software. The entire building housing these records are controlled by guards/visitor register.

RETENTION AND DISPOSAL:

Retention of closed DSS investigative files is authorized for 15 years maximum, except as follows:

(1) Files which have resulted in final adverse action against an individual will be retained 25 years;

(2) Files developed on persons who are being considered for affiliation with the Department of Defense will be destroyed within one year if the affiliation is not completed. In cases involving a pre-appointment investigation, if the appointment is not made due to information developed by investigation, the file will be retained 25 years upon notification from the requester for which the investigation was conducted. If the appointment is not made due to information developed by investigation, the file will be retained 25 years upon notification from the requester for which the investigation was conducted. If the appointment is not made for another reason not related to the investigation, the file will be destroyed within one year upon notification from the requesting agency service;

(3) Files concerning unauthorized disclosure of classified information and other specialized investigation files will be retained for 15 years; and

(4) Information within the purview of the Department of Defense Directive 5200.27, Acquisition of Information Concerning Persons and Organizations not Affiliated with the Department of Defense, is destroyed within one year after acquisition by DSS unless its retention is required by law or unless its retention has been specifically authorized by the Secretary of Defense or his designee;

(5) Reciprocal investigations are retained for only 60 days; and

(6) Partial duplicate records of personnel security investigations are retained for 60 days by DSS field elements.

SYSTEM MANAGER(S) AND ADDRESS:

Defense Security Service, P.O. Box 168, 1137 Branchton Road, Boyers, PA 16020–0168.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system should send written inquiries to the Defense Security Service, Office of FOIA and PA, 1340 Braddock Place, Alexandria, VA 22314–1615.

A request for this information must contain the full name and Social Security Number of the subject individual, along with the address where the information is to be returned.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system must send written signed inquiries to Defense Security Service, Privacy Act Branch, 938 Elkridge Landing Road, Linthicum, MD 21090.

A request for information must contain the full name and Social Security Number of the subject individual and address where the records are to be returned.

CONTESTING RECORD PROCEDURES:

DSS' rules for accessing records, contesting contents, and appealing initial agency determinations are contained in DSS Regulation 01–13; 32 CFR part 321; or may be obtained from the Defense Security Service, Office of FOI and PA, 1340 Braddock Place, Alexandria, VA 22314–1651.

RECORD SOURCE CATEGORIES:

Subjects of investigations, records of other DoD activities and components, Federal, state, county, and municipal records, employment records of private business and industrial firms. Educational and disciplinary records of schools, colleges, universities, technical and trade schools. Hospital, clinic, and other medical records.

Records of commercial enterprises such as real estate agencies, credit bureaus, loan companies, credit unions, banks, and other financial institutions which maintain credit information on individuals.

The interview of individuals who are thought to have knowledge of the subject's background and activities.

The interview of witnesses, victims, and confidential sources.

The interview of any individuals deemed necessary to complete the DSS investigation.

Miscellaneous directories, rosters, and correspondence.

Any other type of record deemed necessary to complete the DSS investigation.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Investigatory material compiled for law enforcement purposes may be

exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

Records maintained in connection with providing protective services to the President and other individuals under 18 U.S.C. 3506, may be exempt pursuant to 5 U.S.C. 552a(k)(3).

Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

An exemption rule for this record system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 321. For additional information contact the system manager.

[FR Doc. E9–9907 Filed 4–29–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2009–OS–0061]

U.S. Court of Appeals for the Armed Forces Proposed Rules Changes

AGENCY: Department of Defense.

ACTION: Notice of Proposed Changes to the Rules of Practice and Procedure of the United States Court of Appeals for the Armed Forces and implementation of a new electronic filing program.

SUMMARY: This notice announces the following proposed changes to Rules 19(a)(5), 20(e), 21(c)(2), 37(a), 37(b)(2), and 40(b)(3) of the Rules of Practice and Procedure, United States Court of Appeals for the Armed Forces and implementation of a new electronic filing program for public notice and comment. New language is in bold print. Language to be removed is within brackets.

DATES: Comments on the proposed changes must be received within 30 days of the date of this notice.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) and title by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.*
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number or RIN for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: William A. DeCicco, Clerk of the Court, telephone (202) 761–1448.

Dated: April 24, 2009.

Morgan E. Frazier,

Alternate OSD Federal Liaison Officer.

Department of Defense

Rule 19(a)(5):

(A) In all cases where the petition is filed by counsel, a supplement to the petition establishing good cause in accordance with Rule 21 shall be filed contemporaneously with the petition. Motions for enlargement of time to file the supplement, while disfavored, will be granted for good cause shown. An appellee's answer to the supplement to the petition, except for cases on appeal by the United States under Article 62, UCMJ, 10 U.S.C. § 862 (2000), may be filed no later than 20 days after the filing of the supplement. *See* Rule 21(e). A reply may be filed by the appellant no later than 5 days after the filing of appellee's answer. An appellee's answer to the supplement in a case under appeal by the United States under Article 62, UCMJ, may be filed no later than 10 days after the filing of the supplement; an appellant may file a reply no later than 5 days after the filing of appellee's answer.

(B) In all cases where the petition is filed by the appellant, a supplement to the petition shall be filed by counsel no later than 20 days after the issuance by the Clerk of a notice of docketing of the petition. *See* Rule 10(c). An appellee's answer to the supplement to the petition and an appellant's reply may be filed in accordance with the time limits contained in Rule 19(a)(5)(A).

[(A) *Article 62, UCMJ, appeals.* In cases involving a decision by a Court of Criminal Appeals on appeal by the United States under Article 62, UCMJ, 10 USC § 862, a supplement to the petition establishing good cause in accordance with Rule 21 shall be filed no later than 20 days after the issuance by the Clerk of a notice of docketing of such a petition for grant of review. *See* Rule 10(c). An appellee's answer to the supplement to the petition for grant of review shall be filed no later than 10 days after the filing of such supplement. A reply may be filed by the appellant no later than 5 days after the filing of the appellee's answer.

(B) *Other appeals.* In all other appeal cases, a supplement to the petition establishing good cause in accordance with Rule 21 shall be filed no later than 30 days after the issuance by the Clerk of a notice of docketing of a petition for grant of review. *See* Rule 10(c). An appellee's answer to the supplement to the petition for grant of review may be filed no later than 30 days after the filing of such supplement. *See* Rule 21(e). A reply may be filed by the appellant no later than 10 days after the filing of the appellee's answer.]

Comment: The changes will accelerate the case disposition process. The accelerated time limits are accompanied with a provision to obtain extensions for good cause shown to address concerns that there may be circumstances where additional time may be justified.

Rule 20(e):

(e) Upon issuance by the Clerk under Rule 10(c) of a notice of docketing of a petition for grant of review filed personally by an appellant, counsel for the appellant shall file a supplement to the petition in accordance with the applicable time limit set forth in Rule 19(a)(5)[(A) or](B), and the provisions of Rule 21.

Comment: This change is a conforming amendment to bring Rule 20(e) into alignment with the change in Rule 19(a)(5).

Rule 21(c)(2):

(2) *Answer/reply in other appeals.* An appellee's answer to the supplement to the petition for grant of review in all other appeal cases may be filed no later than [30] 20 days after the filing of the supplement; *see* Rule 21(e); (remainder of paragraph is unchanged).

Comment: This change conforms Rule 21(c)(2) to the change in Rule 19(a)(5).

Rules 37(a) and 37(b)(2):

(a) Printing. Except for records of trial and as otherwise provided by Rules 24(f) and 27(a)(4) or any order of the Court regarding the electronic filing of pleadings, all pleadings and other papers relative to a case shall be typewritten and double-spaced, printed on one side only on white unglazed paper, 8.5 by 11 inches in size, securely fastened in the top left corner.

(b)(2) Except for electronically filed pleadings, an original and 7 legible copies of all pleadings or other papers relative to a case shall be filed.

Comment: These changes are proposed to account for orders of the Court pertaining to electronic filing of pleadings.

Rule 40(b)(3):

(3) *Time allowed.* Each side will normally be allotted [30] 20 minutes to present oral argument.

Comment: This change is proposed to bring the rule into conformance with recent court practice.

Proposed Order on Electronic Filing

Effective (date), the following pleadings may be filed on paper or electronically in accordance with the guidelines attached to this Order:

(a) Petitions for grant of review filed by counsel under Rule 18(a)(1);

(b) Supplements to petitions for grant of review filed under Rule 21;

(c) Answers (including 10-day letters to the Clerk) and replies filed under Rule 21(c); and

(d) Motions filed under Rule 30 that concern the pleadings described in paragraphs (a)-(c), and replies thereto, when such motions are filed prior to the Court's action granting or denying a petition for grant of review.

It is further ordered that the Orders pertaining to electronic filing issued on May 8, 2003 (58 M.J. 282) and August 5, 2004 (60 M.J. 308) are hereby rescinded, effective (date).

Proposed Guidelines for Electronic Filing of Pleadings

1. Scope

The United States Court of Appeals for the Armed Forces adopts the following provisions to govern the filing of the documents described in paragraphs (a)-(d) of the order (hereinafter collectively referred to as ''petition documents''):

a. This Order applies to all petition documents filed electronically on or after (date). An appendix to the supplement to the petition for grant of review (containing the decision of the Court of Criminal Appeals, matters submitted pursuant to *United States* v. *Grostefon,* 12 M.J. 431 (C.M.A. 1982) and other required matter) is included in this requirement to be filed electronically unless it consists of more than 50 pages. In such a case, the appendix may be submitted on paper and the supplement submitted electronically. In lieu of submitting an appendix in excess of 50 pages on paper, counsel may submit it in a CD or DVD format and note in the supplement that it is being filed in that format under separate cover. Record matters in the form of video media on CD–ROM or DVD may be submitted in a separate volume of the appendix that is filed in accordance with Rule 21(b).

b. A petition for grant of review filed personally by an appellant shall be filed on paper as provided under Rule 20(a). All subsequent petition documents filed by counsel in such a case may be filed on paper or electronically except as provided in section 1.c of these guidelines.

c. This Order does not provide for electronic filing of documents concerning other matters, such as documents concerning certified cases; mandatory review cases; writ-appeal petitions; petitions for extraordinary relief; petitions for new trial; and petitions for reconsideration. In a case arising under Article 67(a)(3), UCMJ, (petitions for grant of review), the Order permits electronic filing only with respect to documents filed before the Court issues an order granting or denying review.

2. Electronic Filing Address

Counsel shall file petition and motion documents at the following e-mail address: (to be filled in) *@armfor.uscourts.gov*

For questions or help concerning the electronic filing of pleadings, counsel should contact the Clerk's Office at (202) 761–1448.

3. Procedure

a. The electronic filing of a petition document shall be deemed filed as of the date and time of the transmission of the electronic mail message.

b. The electronic mail message shall contain the following in the subject block: (1) The name of the case; (2) the docket number if a docket number has been assigned; and (3) the words ''electronic filing.'' A description of what is being attached will be included in the body of the electronic mail message.

c. The pleading shall be attached to the electronic mail message in Portable Document Format (PDF), and, when printed, shall be in compliance with the Rules of Practice and Procedure of the Court.

d. Counsel shall send an electronic copy of the message and all attachments to opposing counsel to accomplish service of the pleading under Rule 39. This may be accomplished by listing opposing counsel as a ''cc'' recipient of the electronic message.

e. The pleading attached to an electronic filing shall contain the conformed signature (''/s/'') or digital signature of the attorney of record. This will comply with Rule 38.

f. If a pleading is filed electronically in accordance with this Order, the party is not required to prepare and file printed copies under Rules 37(a) and 37(b)(2). The Court will send a reply electronic message to the sender indicating receipt of the electronic filing.

g. Classified material and material under seal will not be filed electronically. If such matters need to be filed, they will be submitted to the Court on paper as a supplemental filing to the document in which they would otherwise appear. In such cases, counsel will include in the text of the electronic mail message a notation that classified or sealed material is being separately submitted. The classified or sealed material will be appropriately packaged, marked and delivered, and will include a notation that it accompanies an electronic filing in the case. All classified material will be handled in accordance with Rule 12.

h. Counsel must refrain from including and shall redact the following personal data identifiers from documents filed with the Court:

- Social security numbers
- Names of minors
- Dates of birth
- Financial account numbers
- Home addresses

i. Upon the entry of an order granting or denying an electronically filed petition for grant of review, the Clerk will electronically transmit a copy of the order to counsel.

Comment: Appellate courts are increasingly providing for electronic filing of pleadings. This proposal will permit electronic filing of pleadings at the petition stage of cases before the Court. By making the program optional, the rules provide for circumstances in which counsel may find it necessary to file on paper.

[FR Doc. E9–9912 Filed 4–29–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID USAF–2009–0028]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to delete a System of Records.

SUMMARY: The Department of the Air Force proposes to delete a system of

records notice from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on June 1, 2009 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Air Force Privacy Act Officer, Office of Warfighting Integration and Chief Information Officer, SAF/XCPPI, 1800 Air Force Pentagon, Suite 220, Washington, DC 20330–1800.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Swilley at (703) 696–6648.

SUPPLEMENTARY INFORMATION: The Department of the Air Force systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The Department of the Air Force proposes to delete a system of records notice from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: April 27, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F036 AF PC S

SYSTEM NAME:

Contingency Operations System (COMPES) (June 11, 1997, 62 FR 31793).

REASON:

This system was incorporated into F036 AF PC C, Air Force Military Personnel Data System (PDS) (June 11, 1997, 62 FR 31793)

[FR Doc. E9–9902 Filed 4–29–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2009–0011]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Army is proposing to alter a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The proposed action will be effective on June 1, 2009 unless comments are received that would result in a contrary determination.

ADDRESSES: Department of the Army, Privacy Office, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Mr. Leroy Jones, (703) 428–6815.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on April 24, 2009 to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: April 24, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0040–5a DASG DoD

SYSTEM NAME:

Defense Medical Surveillance System (May 5, 2006, 71 FR 87).

CHANGES:

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 10 U.S.C. 3013, Secretary of the Army, 10 U.S.C. 8013, Secretary of the Air Force, 10 U.S.C. 5013, Secretary of the Navy; DoD Instruction 1100.13, Surveys of DoD Personnel; DoD Directive 6490.2, Comprehensive Health Surveillance; DoD Directive 6490.3, Deployment Health; DoD Instruction 6485.01, Human Immunodeficiency Virus; DoD Directive 1404.10, Civilian Expeditionary Workforce; and E.O. 9397 (SSN).''

* * * * *

SYSTEM LOCATION:

Delete entry and replace with ''Armed Forces Health Surveillance Center, Building T–20, Room 213, 6900 Georgia Avenue, NW., Washington, DC 20307–5001; and Armed Forces Health Surveillance Center, 503 Robert Grant Avenue, Silver Spring, MD 20910–7500.''

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''The Defense Medical Surveillance System contains up-to-date and historical data on diseases and medical events (*e.g.,* hospitalizations, ambulatory visits, reportable diseases, evacuations, casualty records, immunizations, Human Immunodeficiency Virus (HIV) tests, other laboratory tests, prescription information, radiology information, acute respiratory diseases, and periodic and deployment health appraisal information) and longitudinal data on personnel and deployments.

Information in this system of records originates from personnel systems, medical records, health surveys (*e.g.,* Pentagon Post Disaster Health Assessment, periodic, pre and post deployment health assessments) and/or health assessments made from specimen collections (remaining serum from blood samples) from which serologic tests can be performed (serum number, specimen locator information, collection date, place of collection).

Records being maintained include individual's name, Social Security Number (SSN), date of birth, gender, branch of service, home address, age, medical treatment facility, condition of medical and physical health and capabilities, responses to survey questions, register number assigned, and similar records, information and reports, relevant to the various registries; and specimen collections (remaining serum from blood samples) from which serologic tests can be performed (serum number, specimen locator information, collection date, place of collection).''

* * * * *

PURPOSE:

Delete entry and replace with ''The Defense Medical Surveillance System (DMSS) supports a systematic collection, analysis, interpretation, and reporting of standardized, population based data for the purposes of characterizing and countering medical threats to a population's health, well being and performance. The Armed Forces Health Surveillance Center, which operates the DMSS, routinely publishes summaries of notifiable diseases, trends of illnesses of special

surveillance interest and field reports describing outbreaks and case occurrences in the Medical Surveillance Monthly Report, the principal vehicle for disseminating medical surveillance information of broad interest. Through DMSS, the Armed Forces Health Surveillance Center provides the sole link between the DoD Serum Repository and other databases. This repository contains over 46 million frozen serum specimens and is the largest of its kind in the world.''

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Director of the Armed Forces Health Surveillance Center, The Army Surgeon General, Headquarters, Department of the Army, 5109 Leesburg Pike, Falls Church, VA 22041–3258.''

NOTIFICATION PROCEDURES:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, Armed Forces Health Surveillance Center, 503 Robert Grant Avenue, Silver Spring, MD 20910–7500.

For verification purposes, individual should provide their full name, Social Security Number, any details which may assist in locating record, and their signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system should address written inquiries to the Director of the Armed Forces Health Surveillance Center, 503 Robert Grant Avenue, Silver Spring, MD 20910–7500.

For verification purposes, individual should provide their full name, Social Security Number, any details which may assist in locating record, and their signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.''

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with ''From the individual, personnel and medical records, and mortality and casualty reports.''

* * * * *

A0040–5a DASG DoD

SYSTEM NAME:

Defense Medical Surveillance System.

SYSTEM LOCATION:

Armed Forces Health Surveillance Center, Building T–20, Room 213, 6900 Georgia Avenue, NW., Washington, DC 20307–5001; and Armed Forces Health Surveillance Center, 503 Robert Grant Avenue, Silver Spring, MD 20910–7500.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Defense military personnel (active and reserve) and their family members; DoD civilian personnel deploying with the Armed Forces; applicants for military service; and individuals who participate in DoD health surveys.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Defense Medical Surveillance System contains up-to-date and historical data on diseases and medical events (*e.g.,* hospitalizations, ambulatory visits, reportable diseases, evacuations, casualty records, immunizations, Human Immunodeficiency Virus (HIV) tests, other laboratory tests, prescription information, radiology information, acute respiratory diseases, and periodic and deployment health appraisal information) and longitudinal data on personnel and deployments.

Information in this system of records originates from personnel systems, medical records, health surveys (*e.g.,* Pentagon Post Disaster Health Assessment, periodic, pre and post deployment health assessments) and/or health assessments made from specimen collections (remaining serum from blood samples) from which serologic tests can be performed (serum number, specimen locator information, collection date, place of collection).

Records being maintained include individual's name, Social Security Number, date of birth, gender, branch of service, home address, age, medical treatment facility, condition of medical and physical health and capabilities, responses to survey questions, register number assigned, and similar records, information and reports, relevant to the various registries; and specimen collections (remaining serum from blood samples) from which serologic tests can be performed (serum number, specimen locator information, collection date, place of collection).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 10 U.S.C. 3013, Secretary of the Army, 10 U.S.C. 8013, Secretary of the Air Force, 10 U.S.C. 5013, Secretary of the Navy; DoD Instruction 1100.13, Surveys of DoD Personnel; DoD Directive 6490.2, Comprehensive Health Surveillance; DoD Directive 6490.3, Deployment Health; DoD Instruction 6485.01, Human immunodeficiency Virus; DoD Directive 1404.10, Civilian Expeditionary Workforce; and E.O. 9397 (SSN).

PURPOSE(S):

The Defense Medical Surveillance System (DMSS) supports a systematic collection, analysis, interpretation, and reporting of standardized, population based data for the purposes of characterizing and countering medical threats to a population's health, well being and performance. The Armed Forces Health Surveillance Center, which operates the DMSS, routinely publishes summaries of notifiable diseases, trends of illnesses of special surveillance interest and field reports describing outbreaks and case occurrences in the Medical Surveillance Monthly Report, the principal vehicle for disseminating medical surveillance information of broad interest. Through DMSS, the Armed Forces Health Surveillance Center provides the sole link between the DoD Serum Repository and other databases. This repository contains over 46 million frozen serum specimens and is the largest of its kind in the world.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system, except that these routine uses do not apply to the Serum Repository.

Note: This system of records contains individually identifiable health information. The DoD Health Information Privacy Regulation (DoD 6025.18–R) issued pursuant to the Health Insurance Portability and Accountability Act of 1996, applies to most such health information. DoD 6025.18–R may place additional procedural requirements on the uses and disclosures of such information beyond those found in the Privacy Act of 1974 or mentioned in this system of records notice.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

Information is retrieved by individual's name, Social Security Number (SSN), registry number and specimen number.

SAFEGUARDS:

Records are maintained within secured buildings in areas accessible only to persons having official need, and who therefore are properly trained and screened. Automated segments are protected by controlled system passwords governing access to data.

RETENTION AND DISPOSAL:

Records are destroyed when no longer needed for reference and for conducting business.

SYSTEM MANAGER(S) AND ADDRESS:

Director of the Armed Forces Health Surveillance Center, The Army Surgeon General, Headquarters, Department of the Army, 5109 Leesburg Pike, Falls Church, VA 22041–3258.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, Armed Forces Health Surveillance Center, 503 Robert Grant Avenue, Silver Spring, MD 20910–7500.

For verification purposes, individual should provide their full name, Social Security Number (SSN), any details which may assist in locating record, and their signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Director of the Armed Forces Health Surveillance Center, 503 Robert Grant Avenue, Silver Spring, MD 20910–7500.

For verification purposes, individual should provide their full name, Social Security Number, any details which may assist in locating record, and their signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, personnel and medical records, and mortality and casualty reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E9–9910 Filed 4–29–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA–2009–0012]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to add a System of Records.

SUMMARY: The Department of the Army is proposing to add a system of records to its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: The proposed action will be effective on June 1, 2009 unless comments are received that would result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Division, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Mr. Leroy Jones at (703) 428–6185.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on April 24, 2009, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals', dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: April 24, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0350–1b TRADOC

SYSTEM NAME:

Army Career Tracker (ACT).

SYSTEM LOCATION:

Army commands, installations and activities. Addresses for the above may be obtained from the Commander, Headquarters, U.S. Army Training and Doctrine Command, Noncommissioned Officer Program Management Office (ATCG–NC), 5A North Gate Road, Fort Monroe, VA 23651–1048.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of the Army military members and civilians employed by the U.S. Government.

CATEGORIES OF RECORDS IN THE SYSTEM:

Course and training data to include name, grade/rank, Social Security Number (SSN), address, service component, branch, personnel classification, military status, military occupational specialty, credit hours accumulated, examination and lesson grades, student academic status, curricula, course description, scheduling, testing, academic, graduation, individual goals, personnel and attrition data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; Army Regulation 350–1, Army Training and Leader Development; and E.O. 9397 (SSN).

PURPOSE(S):

The Army Career Tracker will receive training, education, experiential learning, personal and biographical data from several Army information systems and present a comprehensive and personalized view of Noncommissioned Officer, Officer, and Army Civilian career history, course enrollment, course completion, and course catalog information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act if 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper printouts and electronic storage media.

RETRIEVABILITY:

Individual's name (Army Knowledge Online User Identification).

SAFEGUARDS:

Access to the system is restricted to authorized personnel only with Army Knowledge Online sign-on and password authorization. Records are maintained within secured buildings in areas accessible only to persons having an official need-to-know and who therefore are properly trained and screened.

RETENTION AND DISPOSAL:

Records on local training and individual goals are maintained until no longer needed for conducting business, but not longer than 6 years, then destroyed. Destroy electronic media by deletion; destroy paper printout by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Headquarters, U.S. Army Training and Doctrine Command, Noncommissioned Officer Program Management Office (ATCG–NC), 5A North Gate Road, Fort Monroe, VA 23651–1048.

Commander, Headquarters, U.S. Army Training and Doctrine Command, Privacy Act Officer (ATIM–II), 84 Patch Road, Building 162, Fort Monroe, VA 23651–1051.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this system should address written inquiries to the Commander, Headquarters, U.S. Army Training and Doctrine Command, Noncommissioned Officer Program Management Office (ATCG–NC), 5A North Gate Road, Fort Monroe, VA 23651–1048.

Individual should provide full name, Social Security Number (SSN) and military status or other information verifiable from the record itself.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, Headquarters, U.S. Army Training and Doctrine Command, Noncommissioned Officer Program Management Office (ATCG–NC), 5A North Gate Road, Fort Monroe, VA 23651–1048.

Individual should provide full name, Social Security Number (SSN) and military status or other information verifiable from the record itself.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is received from the individual, DoD staff, and personnel and training systems.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E9–9911 Filed 4–29–09; 8:45 am]

BILLING CODE 5001–06–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 June 1, 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, be faxed to (202) 395–5806 or send e-mail to *oira_submission@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: April 27, 2009.

Angela C. Arrington,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Federal Student Aid

Type of Review: Extension.

Title: Teacher Cancellation Low Income Directory.

Frequency: Annual.

Affected Public: Individuals or household; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 57.

Burden Hours: 6,983.

Abstract: State Agencies contribute to the development of a directory of elementary and secondary schools and educational service agencies that serve low-income families. The directory allows post-secondary institutions to determine whether or not a Federal Perkins Loan, Direct loan, or Federal Family Education Loan at their school is eligible to receive a loan cancellation as provided under Title I of the Elementary and Secondary Education Act of 1965.

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 3948. 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) 395–5806. 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. E9–9976 Filed 4–29–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

April 23, 2009.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG09–37–000.

Applicants: Optim Energy Cedar Bayou 4, LLC

Description: Notice of Self Certification of Exempt Wholesale Generator Status of Optim Energy Cedar Bayou 4, LLC.

Filed Date: 04/22/2009

Accession Number: 20090422–5119.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 13, 2009.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER09–604–001.

Applicants: UNS Electric, Inc.

Description: UNS Electric, Inc submits for acceptance First Revised Sheet 24A et al to its FERC Electric Tariff, First Revised Volume 1 to be effective 10/1/08.

Filed Date: 04/21/2009.

Accession Number: 20090422–0124.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 12, 2009.

Docket Numbers: ER09–781–001.

Applicants: Otter Tail Power Company

Description: Otter Tail Power Company submits Substitute Original Sheet 2 *et al.* to its FERC Electric Tariff, Original Volume 2.

Filed Date: 04/22/2009.

Accession Number: 20090423–0031.

Comment Date: 5 p.m. Eastern Time on Monday, May 4, 2009.

Docket Numbers: ER09–1004–001.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool submits an amendatory filing the NITSA, the Missouri Agreement and the NOA with revised designations reflecting an effective date of 4/15/09.

Filed Date: 04/22/2009.

Accession Number: 20090423–0030.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 13, 2009.

Docket Numbers: ER09–1022–000.

Applicants: Exelon New England Holdings, LLC.

Description: Motion requesting limited waiver of market rule 1, FCM qualification rules of Exelon Corporation.

Filed Date: 04/21/2009.

Accession Number: 20090422–0125.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 12, 2009.

Docket Numbers: ER09–1023–000.

Applicants: Northwestern Corporation.

Description: North Western Corporation submits Original Sheet 1*et al.* to its FERC Electric Rate Schedule 264.

Filed Date: 04/21/2009.

Accession Number: 20090422–0127.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 12, 2009.

Docket Numbers: ER09–1024–000.

Applicants: American Electric Power Service Corporation.

Description: AEP Texas Central Company submits new and revised sheets of the transmission interconnection agreement between AEPTCC and Electric Transmission Texas, LLC.

Filed Date: 04/22/2009.

Accession Number: 20090422–0309.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 13, 2009.

Docket Numbers: ER09–1026–000.

Applicants: The Detroit Edison Company.

Description: The Detroit Edison Co. submits revisions to its Ancillary Services Tariff.

Filed Date: 04/22/2009.

Accession Number: 20090422–0345.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 13, 2009.

Docket Numbers: ER09–1027–000.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent Systems Operator, Inc. submits for acceptance Seventh Revised Sheet 3 *et al.* to its FERC Electric Tariff, Original Volume 1.

Filed Date: 04/22/2009.

Accession Number: 20090423–0032.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 13, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protest.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9–9891 Filed 4–29–09; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8899–1]

American Recovery and Reinvestment Act of 2009 (Recovery Act) Addendum to Supplemental Funding for Brownfields Revolving Loan Fund (RLF) Grantees

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA published a notice on April 10, 2009 regarding plans to make available approximately $40 million in Recovery Act funding to supplement Revolving Loan Fund capitalization grants previously awarded competitively under section 104(k)(3) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). The purpose of this notice is to notify eligible RLF grantees that Supplemental Funding for Brownfields RLF grantees provided under the April 10, 2009 notice will be subject to the Buy American provisions for activities defined as infrastructure by the Agency.

DATES: This action is effective April 30, 2009.

FOR FURTHER INFORMATION CONTACT: Debi Morey, U.S. EPA, Office of Solid Waste and Emergency Response, Office of Brownfields and Land Revitalization, (202) 566–2735 or the appropriate Brownfields Regional Contact.

SUPPLEMENTARY INFORMATION:

Background

On February 17, 2009, President Barack Obama signed the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111–05) (Recovery Act). EPA received $100 million in Recovery Act appropriations for the CERCLA 104(k) Brownfields Program of which 25% must be used at brownfields sites contaminated with petroleum. The Agency has allocated approximately $40 million of Recovery Act funds for supplemental funding of current RLF grantees as authorized by CERCLA 104(k)(4).

Title XVI, section 1605 of the Recovery Act, (''Buy American'') prohibits the use of Recovery Act funds for projects involving ''the construction, alteration, maintenance or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States'' unless certain specified exceptions apply. OMB has issued regulations at Subpart B of 2 CFR Part 276 implementing the Recovery Act Buy American provision. It is possible that a limited amount of RLF supplemental funding will be used directly by non-federal governmental entity borrowers or subgrantees for projects that have a principal purpose of installing concrete or asphalt (or similar material) caps to remediate contamination on brownfields on a public building or public work, as defined at 2 CFR 176.140(a), or constructing alternative drinking water systems as part of the remedy at a brownfields site. These caps constitute an engineering control to enclose and protect contamination from migration and the risk of exposure. Construction of alternate drinking water systems by a non-federal governmental entity with RLF supplemental funding would be a public work under 2 CFR 176.140(a). EPA considers loans and subgrants that have a principal purpose of carrying out of these types of activities to be infrastructure investments for the purposes of the certification and reporting requirements of Title XV, sections 1511 and 1512 of the Recovery Act and implementing regulations at 2 CFR 176.50. If an RLF grantee is requesting supplemental funding for a project which requires a Buy American Act determination (i.e., a cap that will be directly incorporated into a public building or public work) and the grantee intends to use other than American steel, iron or manufactured goods, the grantee must request an advance determination or provide the necessary information in their request for RLF supplemental funding.

Please note that in accordance with 2 CFR 176.140(a), remediation activities conducted with RLF supplemental funds by private sector developers, non-profit organizations (except multi-State, regional or interstate entities which have governmental functions) or other non-governmental borrowers or subgrantees, and tribes are not public buildings or public works for the purposes of the Buy American provision of the Recovery Act as implemented at Subpart B of 2 CFR Part 176. EPA does not consider remediation activities conducted with RLF supplemental funds by private sector developers, non-profit organizations (except multi-State, regional or interstate entities which

have governmental functions) or other non-governmental borrowers or subgrantees to be infrastructure investments for the purposes of the certification and reporting requirements.

Required Use of American Iron, Steel, and Manufactured Goods—Section 1605 of the American Recovery and Reinvestment Act of 2009

(a) *Definitions.* ''Manufactured good,'' ''public building and public work,'' and ''steel,'' as used in this notice, are defined in the 2 CFR 176.140.

(b) *Requests for determinations of inapplicability.* A prospective applicant requesting a determination regarding the inapplicability of section 1605 of the Recovery Act should submit the request to the award official in time to allow a determination before submission of applications or proposals. The prospective applicant shall include the information and applicable supporting data required by paragraphs (c) and (d) of the award term and condition at 2 CFR 176.140 in the request. If an applicant has not requested a determination regarding the inapplicability of 1605 of the Recovery Act before submitting its application or proposal, or has not received a response to a previous request, the applicant shall include the information and supporting data in the application or proposal.

(c) *Evaluation of project proposals.*

If the Federal government determines that an exception based on unreasonable cost of domestic iron, steel, and/or manufactured goods applies, the Federal Government will evaluate a project requesting exception to the requirements of section 1605 of the Recovery Act by adding to the estimated total cost of the project 25 percent of the project cost, if foreign iron, steel, or manufactured goods are used in the project based on unreasonable cost of comparable manufactured domestic iron, steel, and/or manufactured goods.

(d) *Alternate project proposals.*

(1) When a project proposal includes foreign iron, steel, and/or manufactured goods not listed by the Federal Government at paragraph (b)(2) of the award term and condition at 2 CFR 176.140, the applicant also may submit an alternate proposal based on use of equivalent domestic iron, steel, and/or manufactured goods.

(2) If an alternate proposal is submitted, the applicant shall submit a separate cost comparison table prepared in accordance with paragraphs (c) and (d) of the award term and condition at 2 CFR 176.140 for the proposal that is based on the use of any foreign iron, steel, and/or manufactured goods for which the Federal Government has not yet determined an exception applies.

(3) If the Federal government determines that a particular exception requested in accordance with paragraph (b) of the award term and condition at 2 CFR 176.140 does not apply, the Federal Government will evaluate only those proposals based on use of the equivalent domestic iron, steel, and/or manufactured goods, and the applicant shall be required to furnish such domestic items.

Notice of Required Use of American Iron, Steel, and Manufactured Goods (Covered Under International Agreements)—Section 1605 of the American Recovery and Reinvestment Act of 2009

(a) *Definitions.* ''Designated country iron, steel, and/or manufactured goods,'' ''foreign iron, steel, and/or manufactured good,'' ''manufactured good,'' ''public building and public work,'' and ''steel,'' as used in this provision, are defined in 2 CFR 176.160(a).

(b) *Requests for determinations of inapplicability.* A prospective applicant requesting a determination regarding the inapplicability of section 1605 of the Recovery Act should submit the request to the award official in time to allow a determination before submission of applications or proposals. The prospective applicant shall include the information and applicable supporting data required by paragraphs (c) and (d) of the award term and condition at 2 CFR 176.160 in the request. If an applicant has not requested a determination regarding the inapplicability of 1605 of the Recovery Act before submitting its application or proposal, or has not received a response to a previous request, the applicant shall include the information and supporting data in the application or proposal.

(c) *Evaluation of project proposals.*

If the Federal government determines that an exception based on unreasonable cost of domestic iron, steel, and/or manufactured goods applies, the Federal Government will evaluate a project requesting exception to the requirements of section 1605 of the Recovery Act by adding to the estimated total cost of the project 25 percent of the project cost if foreign iron, steel, or manufactured goods are used based on unreasonable cost of comparable domestic iron, steel, or manufactured goods.

(d) *Alternate project proposals.*

(1) When a project proposal includes foreign iron, steel, and/or manufactured goods, other than designated country iron, steel, and/or manufactured goods, that are not listed by the Federal Government in this Buy American notice in the request for applications or proposals, the applicant may submit an alternate proposal based on use of equivalent domestic or designated country iron, steel, and/or manufactured goods.

(2) If an alternate proposal is submitted, the applicant shall submit a separate cost comparison table prepared in accordance with paragraphs (c) and (d) of the award term and condition at 2 CFR 176.160 for the proposal that is based on the use of any foreign iron, steel, and/or manufactured goods for which the Federal Government has not yet determined an exception applies.

(3) If the Federal government determines that a particular exception requested in accordance with paragraph (b) of the award term and condition at 2 CFR 176.160 does not apply, the Federal Government will evaluate only those proposals based on use of the equivalent domestic or designated country iron, steel, and/or manufactured goods, and the applicant shall be required to furnish such domestic or designated country items.

Statutory and Executive Order Reviews: Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to OMB review. Because this grant action is not subject to notice and comment requirements under the Administrative Procedures Act or any other statute, it is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) or Sections 202 and 205 of the Unfunded Mandates Reform Act of 1999 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments. Although this action does not generally create new binding legal requirements, where it does, such requirements do not substantially and directly affect Tribes under Executive Order 13175 (63 FR 67249, November 9, 2000). Although this grant action does not have significant Federalism implications under Executive Order 13132 (64 FR 43255, August 10, 1999), EPA consulted with states in the development of these grant guidelines. This action is not subject to Executive Order 13211, ''Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action does not involve technical standards; thus, the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This action does

not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The Congressional Review Act, 5 U.S.C. 801 *et seq.,* generally provides that before certain actions may take effect, the agency promulgating the action must submit a report, which includes a copy of the action, to each House of the Congress and to the Comptroller General of the United States. Since this grant action, when finalized, will contain legally binding requirements, it is subject to the Congressional Review Act, and EPA will submit its final action in its report to Congress under the Act.

Dated: April 24, 2009.

Myra Blakely,

Acting Director, Office of Brownfields and Land Revitalization, Office of Solid Waste and Emergency Response.

[FR Doc. E9–9964 Filed 4–29–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2008–0401; FRL–8409–5]

Pesticide Product Registrations; Conditional Approval

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications submitted by Syngenta Seeds, Incorporated – Field Crops – NAFTA, to conditionally register the pesticide products, MIR162 Maize, *Bt*11 x MIR162 Corn, and *Bt*11 x MIR162 x MIR604 Corn, containing a new active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(7)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: Jeannine Kausch, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 347–8920; e-mail address: *kausch.jeannine@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2008–0401. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are also available for public inspection. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. Such requests should: Identify the product name and registration number and specify the data or information desired.

Electronic versions of the fact sheet and Biopesticide Regulatory Action Document are available at *http://www.epa.gov/oppbppd1/biopesticides/pips/pip_list.htm*.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Did EPA Conditionally Approve the Application?

A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 154.7; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects; and that use of the pesticide is in the public interest. The Agency has considered the available data on the risks associated with the proposed use of *Bacillus thuringiensis* Vip3Aa20 insecticidal protein and the genetic material for its production (via elements of vector pNOV1300) in Event MIR162 maize (OECD Unique Identifier SYN-IR162-4), and information on social, economic, and environmental benefits to be derived from such use. Specifically, the Agency has considered the nature and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of *Bacillus thuringiensis* Vip3Aa20 insecticidal protein and the genetic material for its production (via elements of vector pNOV1300) in Event MIR162 maize (OECD Unique Identifier SYN-IR162-4) during the period of conditional registration will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is, in the public interest.

Consistent with section 3(c)(7)(C) of FIFRA, the Agency has determined that these conditional registrations are in the public interest. Use of the pesticides are of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of the pesticides will not result in unreasonable adverse effects to man and the environment.

III. Conditional Approval

EPA issued a notice, published in the **Federal Register** of July 23, 2008 (73 FR 42799) (FRL–8365–4), which announced that Syngenta Seeds, Incorporated – Field Crops – NAFTA, P.O. Box 12257, 3054 Cornwallis Road, Research Triangle Park, NC 27709–2257, had submitted applications to conditionally register the pesticide products, MIR162 Maize, *Bt*11 x MIR162 Corn, and *Bt*11 x MIR162 x MIR604 Corn, Plant-

Incorporated Protectants (EPA File Symbols 67979–RU, 67979–RE, and 67979–RG) respectively, containing *Bacillus thuringiensis* Vip3Aa20 insecticidal protein and the genetic material for its production (via elements of vector pNOV1300) in Event MIR162 maize (OECD Unique Identifier SYN-IR162-4), an active ingredient not included in any previously registered product.

The applications were conditionally approved on November 26, 2008, as MIR162 Maize (EPA Registration Number 67979–14), on February 13, 2009, as *Bt*11 x MIR162 Corn (EPA Registration Number 67979–12), and as *Bt*11 x MIR162 x MIR604 Corn (EPA Registration Number 67979–13). These products are plant-incorporated protectants for use on corn.

List of Subjects

Environmental protection, Chemicals, Pests and pesticides.

Dated: April 17, 2009.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. E9–10004 Filed 4–29–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8899–2]

Tentative Approval and Solicitation of Request for a Public Hearing for Public Water System Supervision Program Revision for the Commonwealth of Puerto Rico

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Commonwealth of Puerto Rico is revising its approved Public Water System Supervision Program to adopt EPA's Ground Water Rule. The EPA has determined that these revisions are no less stringent than the corresponding Federal regulations. Therefore, the EPA intends to approve these program revisions. All interested parties may request a public hearing.

DATES: This determination to approve Puerto Rico's primacy program revision application is made pursuant to 40 CFR 142.12(d)(3). It shall become final and effective unless (1) a timely and appropriate request for a public hearing is received or (2) the Regional Administrator elects to hold a public hearing on his own motion. Any interested person, other than Federal Agencies, may request a public hearing. A request for a public hearing must be submitted to the Regional Administrator at the address shown below June 1, 2009. If a substantial request for a public hearing is made within the requested thirty day time frame, a public hearing will be held and a notice will be given in the **Federal Register** and a newspaper of general circulation. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become final and effective June 1, 2009.

ADDRESSES: Any request for a public hearing shall include the following information: (1) Name, address and telephone number of the individual, organization or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement on information that the requesting person intends to submit at such hearing; (3) the signature of the individual making the requests or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity. Requests for Public Hearing shall be addressed to: Regional Administrator, U.S. Environmental Protection Agency—Region 2, 290 Broadway, New York, New York 10007–1866.

All documents relating to this determination are available for inspection between the hours of 9 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Puerto Rico Department of Health, Public Water Supply Supervision Program, 9th Floor—Suite 903, Nacional Plaza Building, 431 Ponce De Leon Avenue, Hato Rey, Puerto Rico 00917.

U.S. Environmental Protection Agency—Region 2, 24th Floor Drinking Water Ground Water Protection Section, 290 Broadway, New York, New York 10007–1866.

FOR FURTHER INFORMATION CONTACT: Michael J. Lowy, Drinking Water Ground Water Protection Section, U.S. Environmental Protection Agency—Region 2, (212) 637–3830.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the United States Environmental Protection Agency (EPA) has determined to approve an application by the Commonwealth of Puerto Rico Department of Health to revise its Public Water Supply Supervision Primacy Program to incorporate regulations no less stringent than the EPA's National Primary Drinking Water Regulations (NPDWR) for the Ground Water Rule; Final Rule; promulgated by EPA November 8, 2006 (71 FR 65574) and the Ground Water Rule; Correction; promulgated by EPA November 21, 2006 (71 FR 67427).

The application demonstrates that Puerto Rico has adopted drinking water regulations which satisfy the NPDWRs for the above. The USEPA has determined that Puerto Rico's regulations are no less stringent than the corresponding Federal Regulations and that Puerto Rico continues to meet all requirements for primary enforcement responsibility as specified in 40 CFR 142.10.

Authority: (Section 1413 of the Safe Drinking Water Act, as amended, 40 U.S.C. 300g–2, and 40 CFR 142.10, 142.12(d) and 142.13)

Dated: March 29, 2009.

Barbara A. Finazzo,

Acting Regional Administrator, Region 2

[FR Doc. E9–9963 Filed 4–29–09; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE U.S.

[Public Notice 111]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Export Import Bank of the U.S.

ACTION: Notice and request for comments.

SUMMARY: The Export-Import Bank, as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. Our customers will be able to submit this form on paper or electronically. Legal certifications for the form have been updated.

DATES: Written comments should be received on or before June 29, 2009 to be assured of consideration.

ADDRESSES: Direct all comments and requests for additional information to Walter Kosciow, Export-Import Bank of the U.S., 811 Vermont Avenue, NW., Washington, DC 20571, (202) 565–3649, (800) 565–3946 Ext. 3649, or *walter.kosciow@exim.gov.*

SUPPLEMENTARY INFORMATION:

Title and Form Number: Application for Financial Institution Short-term Single-Buyer Insurance, EIB 92–41.

OMB Number: 3048–0019.

Type of Review: Regular.

Need and Use: The information requested enables the financial institution applicant to provide Ex-Im Bank with the information necessary to obtain legislatively required assurance of repayment and fulfills other statutory requirements.

Affected Public: The form affects entities involved in the export of U.S. goods and services.

Estimated Annual Respondents: 236.

Estimated Time per Respondent: 1 hour.

Estimated Annual Burden: 236 hours.

Frequency of Reporting or Use: As needed, each time a financial institution seeks short-term insurance for an export sale to a single buyer.

Solomon Bush,

Agency Clearance Officer.

[FR Doc. E9–9852 Filed 4–29–09; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK OF THE U.S.

[Public Notice 113]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Notice and request for comments.

SUMMARY: The Export-Import Bank, as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. Our customers will be able to submit this form on paper or electronically. The form has been updated in order to standardize the outline of this application to those used for medium-term insurance and guarantees and financial institution short-term single sale insurance. The application also more explicitly states the financial information that is required to be submitted with the application. This form mirrors the on-line version of the application that Ex-Im Bank is developing.

DATES: Written comments should be received on or before June 29, 2009 to be assured of consideration.

ADDRESSES: Direct all comments and requests for additional information to Walter Kosciow, Export-Import Bank of the U.S., 811 Vermont Avenue, NW., Washington, DC 20571, (202) 565–3649, (800) 565–3946, or *walter.kosciow@exim.gov.*

SUPPLEMENTARY INFORMATION:

Title and Form Number: Application for Exporter Short-term Single-Buyer Insurance, EIB 92–64.

OMB Number: 3048–0018.

Type of Review: Regular.

Need and Use: The information requested enables the applicant to provide Ex-Im Bank with the information necessary to obtain legislatively required assurance of repayment and fulfills other statutory requirements.

Affected Public: The form affects entities involved in the export of U.S. goods and services.

Estimated Annual Respondents: 191.

Estimated Time per Respondent: 1 hour.

Estimated Annual Burden: 191 hours.

Frequency of Reporting or Use: As needed each time an exporter seeks to obtain Ex-Im Bank short-term insurance for a single-buyer export sale.

Dated: April 24, 2009.

Solomon Bush,

Agency Clearance Officer.

[FR Doc. E9–9848 Filed 4–29–09; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK OF THE U.S.

[Public Notice 113]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Notice and request for comments.

SUMMARY: The Export-Import Bank, as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. Our customers will be able to submit this form on paper or electronically. The form has been updated in order to standardize the outline of this application to those used for medium-term insurance and guarantees and financial institution short-term single sale insurance. The application also more explicitly states the financial information that is required to be submitted with the application. This form mirrors the on-line version of the application that Ex-Im Bank is developing.

DATES: Written comments should be received on or before June 29, 2009 to be assured of consideration.

ADDRESSES: Direct all comments and requests for additional information to Walter Kosciow, Export-Import Bank of the U.S., 811 Vermont Avenue, NW., Washington, DC 20571, (202) 565–3649, (800) 565–3946, or *walter.kosciow@exim.gov.*

SUPPLEMENTARY INFORMATION:

Title and Form Number: Application for Exporter Short-term Single-Buyer Insurance, EIB 92–64.

OMB Number: 3048–0018.

Type of Review: Regular.

Need and Use: The information requested enables the applicant to provide Ex-Im Bank with the information necessary to obtain legislatively required assurance of repayment and fulfills other statutory requirements.

Affected Public: The form affects entities involved in the export of U.S. goods and services.

Estimated Annual Respondents: 191.

Estimated Time per Respondent: 1 hour.

Estimated Annual Burden: 191 hours.

Frequency of Reporting or Use: As needed each time an exporter seeks to obtain Ex-Im Bank short-term insurance for a single-buyer export sale.

Dated: April 24, 2009.

Solomon Bush,

Agency Clearance Officer.

[FR Doc. E9–9844 Filed 4–29–09; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK OF THE U.S.

[Public Notice 110]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Notice and request for comments.

SUMMARY: The Export-Import Bank, as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. The form will be used by banks to apply for comprehensive or political insurance coverage on foreign banks for letter of credit transactions. Our customers will be able to submit this form on paper or electronically.

DATES: Written comments should be received on or before June 1, 2009 to be assured of consideration.

ADDRESSES: Direct all comments and requests for additional information to Kimberly P. Nelson, Office of Management and Budget, Office of

Information and Regulatory Affairs, NEOB, Room 10202, Washington, DC 20503, (202) 395–3787.

SUPPLEMENTARY INFORMATION:

Title and Form Number: Export-Import Bank of the United States Application for Issuing Bank Credit Limit (IBCL) Under Bank Letter of Credit Policy, EIB 92–36.

OMB Number: 3048–0016.

Type of Review: Regular.

Need and Use: The information requested enables the applicant to provide Ex-Im Bank with the information necessary to process credit risk applications involving foreign letter of credit issuing banks.

Affected Public: The form affects entities involved in the export of U.S. goods and services.

Estimated Annual Respondents: 60.

Estimated Time per Respondent: 20 minutes.

Estimated Annual Burden: 240.

Frequency of Reporting or Use: 1 to 12 times per year depending on the particular respondent's need/risk portfolio.

Dated: April 24, 2009.

Solomon Bush,

Agency Clearance Officer.

[FR Doc. E9–9843 Filed 4–29–09; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK OF THE U.S.

[Public Notice 115]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Notice and request for comments.

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank) and the Small Business Administration (SBA) provide working capital guarantees to lenders. In assessing the creditworthiness of an applicant, Ex-Im Bank and SBA review EIB/SBA Form 84–1. This form provides information which allows Ex-Im Bank and SBA to obtain legislatively required reasonable assurance of repayment, as well as to fulfill other statutory requirements. The following changes have been made to the form by the SBA: A field for the E-mail address; a field for the County (of business); an increase in selection for race; a change in reference to the Code of Federal Regulations for the Debarment/Suspension paragraph; a change in the agreements paragraph (Part C, Section 1) from ''SBA form 159'' to ''SBA form 159(7a)'' and the addition of the following provision: ''Each proprietor, each general partner, each limited partner, member or stockholder owning 20% or more, each guarantor and the spouse, when applicable, of each of these must sign. * * * Attach a separate sheet of paper, if necessary.'' Additionally, SBA added the following notices: (1) The Flood Disaster Protection Act, (2) Executive Orders—Floodplain Management and Wetland Protection, (3) the Occupational Safety and Health Act, (4) Civil Rights Legislation, (5) the Equal Credit Opportunity Act, (8) Executive Order 11738—Environmental Protection, (9) the Immigration Reform and Control Act of 1986, and (10) the Lead-Based Paint Poisoning Prevention Act. One item was deleted from the checklist of information to be attached, #16, SBA form 1261. Also added into the notices section were the ''Statements Required by Law and Executive Order'', which applies to both Ex-Im Bank and SBA. Notices on the Debt Collection Act of 1982 and the Deficit Reduction Act of 1984, the Freedom of Information Act and the Right to Financial Privacy Act of 1978 were added and are applicable to customers of Ex-Im Bank and SBA. Ex-Im Bank made the following changes: in the Guarantor and Additional Borrower Representations and Certifications section ''(*SBA Applicants only*), (*for subsection b*)'' was added.

DATES: Written comments should be received on or before June 1, 2009 to be assured of consideration.

ADDRESSES: Direct all comments to Kimberly P. Nelson, Office of Management and Budget, Office of Information and Regulatory Affairs, NEOB, Room 10202, Washington, DC 20503, (202) 395–3897.

SUPPLEMENTARY INFORMATION:

Titles and Form Numbers: U.S. Small Business Administration, Export-Import Bank of the United States Joint Application for Working Capital Guarantee.

OMB Number: 3048–0003.

Form Number: EIB–SBA 84–1.

Type of Review: Revision and extension of expiration date.

Annual Number of Respondents: 673.

Export-Import Bank: 496.

Small Business Administration: 177.

Estimated Time per Respondent: 2.5 hours.

Annual Burden Hours: 1,682.5.

Export-Import Bank: 1,240.0.

Small Business Administration: 442.5.

Frequency of Reporting or Use: Upon application for guarantees of working capital loans advanced by the lenders to U.S. exporters.

Solomon Bush,

Agency Clearance Officer.

[FR Doc. E9–9849 Filed 4–29–09; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK OF THE U.S.

[Public Notice 112]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Notice and request for comments.

SUMMARY: The Export-Import Bank, as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. The form will be used by customers who originally applied for a multibuyer policy using EIB 92–50. Our customers will be able to submit this form on paper or electronically.

DATES: Written comments should be received on or before June 29, 2009 to be assured of consideration.

ADDRESSES: Direct all comments and requests for additional information to Walter Kosciow, Export-Import Bank of the U.S., 811 Vermont Avenue, NW., Washington, DC 20571, (202) 565–3649.

SUPPLEMENTARY INFORMATION:

Title and Form Number: Application for Special Buyer Credit Limit (SBCL) Under Multi-Buyer Export Credit Insurance Policies, EIB 92–51.

OMB Number: 3048–0015.

Type of Review: Regular.

Need and Use: The information requested enables the applicant to provide Ex-Im Bank with the information necessary to obtain legislatively required assurance of repayment and fulfills other statutory requirements.

Affected Public: The form affects entities involved in the export of U.S. goods and Services.

Estimated Annual Respondents: 1778.

Estimated Time per Respondent: ½ hour.

Estimated Annual Burden: 889.

Frequency of Reporting or Use: 2–3 times per year.

Solomon Bush,

Agency Clearance Officer.

[FR Doc. E9–9851 Filed 4–29–09; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK OF THE U.S.

[Public Notice 114]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Notice and request for comments.

SUMMARY: The Export-Import Bank, as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. The form will be used by exporters to report and pay premiums on insured shipments to various foreign buyers. Our customers will be able to submit this form on paper or electronically.

DATES: Written comments should be received on or before June 29, 2009 to be assured of consideration.

ADDRESSES: Direct all comments and requests for additional information to Walter Kosciow, Export-Import Bank of the U.S., 811 Vermont Avenue, NW., Washington, DC 20571, (202) 565–3649, (800) 565–3946, or *walter.kosciow@exim.gov*.

SUPPLEMENTARY INFORMATION:

Title and Form Number: Report of Premiums Payable for Exporters Only, EIB 92–29.

OMB Number: 3048–0017.

Type of Review: Regular.

Need and Use: The information requested enables the applicant to provide Ex-Im Bank with the information necessary to record customer utilization and manage prospective insurance liability relative to risk premiums received.

Affected Public: The form affects entities involved in the export of U.S. goods and services.

Estimated Annual Respondents: 1,850.

Estimated Time per Respondent: 30 minutes.

Estimated Annual Burden: 11,100.

Frequency of Reporting or Use: Monthly.

Solomon Bush,

Agency Clearance Officer.

[FR Doc. E9–9850 Filed 4–29–09; 8:45 am]

BILLING CODE 6690–01–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the regular meeting of the Farm Credit Administration Board (Board).

DATES: *Date and Time:* The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on May 14, 2009, from 9 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Roland E. Smith, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

- April 16, 2009.

B. New Business

- Effective Interest Rates—Proposed Rule.

C. Reports

- Mission-Related Investments Report.
- Office of Management Services Quarterly Report.
- Office of Examination Quarterly Report.

Closed Session *

- Update on the Office of Examination Oversight Activities.

Dated: April 28, 2009.

Roland E. Smith,

Secretary, Farm Credit Administration Board.

[FR Doc. E9–10053 Filed 4–28–09; 4:15 pm]

BILLING CODE 6705–01–P

* Session Closed-Exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget, Comments Requested

April 22, 2009.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501–3520. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before June 1, 2009. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to *Judith-B.Herman@fcc.gov*, Federal Communications Commission, or an e-mail to *PRA@fcc.gov*. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://reginfo.gov/public/do/PRAMain*, (2) look for the section of the web page called ''Currently Under Review'', (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select

Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, and (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0512.

Title: ARMIS Annual Summary Report—FCC Report 43–01.

Report No.: FCC Report 43–01.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 45 respondents; 45 responses.

Estimated Time per Response: 88 hours (average).

Frequency of Response: Annual reporting requirement.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. sections 219 and 220 of the Communications Act of 1934, as amended.

Total Annual Burden: 3,960 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: Not applicable.

Nature and Extent of Confidentiality: Ordinarily, questions of a sensitive nature are not involved in the ARMIS Annual Summary Report (FCC Report 43–01). The Commission contends that areas in which detailed information is required are fully subject to regulation and the issue of data being regarded as sensitive will arise in special circumstances only. In such circumstances, the respondent is instructed on the appropriate procedures to follow to safeguard sensitive data. See 47 CFR 0.459 for procedures for requesting confidential treatment of data.

Needs and Uses: The Commission is requesting a revision of this information collection in order to obtain the full three year clearance from the OMB. The total annual hourly burden for this collection is now estimated at 3,960 hours, a decrease of 7,128 hours. The Commission notes that the total number of respondents has decreased from 124 to 45. We are also reducing the hourly burden by to reflect that 80 respondents that will not file this report attributed to the Memorandum Opinion and Order, FCC 08–271, on December 12, 2008 that reflects the Commission's forbearance that AT&T, Quest and Verizon need not file this ARMIS Report. Therefore, the Commission is reporting a −6,952 hour program change for this change in the annual hourly burden estimate.

Secondly, the Commission is also reducing the hourly burden by a −176 hour adjustment to reflect two study area carriers that will not file this report since their revenue falls below the reporting threshold used for classifying carrier categories for various accounting and reporting purposes.

Finally, we are increasing the estimated average time per response by 88 hours to reflect a more accurate estimate to complete and file the report.

The Commission is requesting OMB approval of a revision of this information collection. We are decreasing the number of study area carriers filing this report to reflect the Commission's recent ARMIS orders. In the December 12, 2008, *Memorandum Opinion and Order*, WC Docket No. 07–204, FCC 08–271, the Commission, among other things, granted forbearance from the obligation of Quest, AT&T and Verizon to file ARMIS Report 43–01. This forbearance was conditioned on a Commission approval of those carriers' compliance plans. The Commission also imposed one further condition on its forbearance from the ARMIS Financial Reports—that each carrier continue to file an annual public filing without any assertions of confidentiality, of the pole attachment cost data currently filed as part of ARMIS Report 43–01 in WC Docket No. 07–204. The Commission's forbearance required those three carriers to file pole attachment data for all states in the next annual filing after approval of their compliance plan, but subsequent filings with the Commission need not include data for those states that have certified to regulation of pole attachments. By letters to the Commission, these three carriers agreed voluntarily to comply with the pole attachment condition. On December 31, 2008, by public notice, the Commission found that Quest, AT&T and Verizon had satisfied the condition that they obtain approval of compliance plans describing in detail how they will continue to fulfill their statutory and regulatory obligations. Therefore, these three carriers are no longer required to file this ARMIS Report 43–01 so long as they comply with the pole attachment filing condition. We are also reducing the hourly burden to reflect two additional respondents that will not file this report since their revenue fell below the reporting threshold used for classifying carrier's categories for various accounting and reporting purposes. This is an adjustment reduction of 176 hours to reflect the two fewer respondents. We are also increasing the number of study area reporting carriers by one. Finally, the Commission is changing the estimated average time per response to 88 hours to accurately reflect the estimated time to complete and file this report.

OMB Control Number: 3060–0859.

Title: Suggested Guidelines for Petitions for Ruling Under Section 253 of the Communications Act.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 80 respondents; 80 responses.

Estimated Time per Response: 63–125 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Voluntary. Statutory authority for this information collection is contained in 47 U.S.C. section 253 of the Communications Act of 1934, as amended.

Total Annual Burden: 6,280 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information to the Commission. Respondents may request confidential treatment of such information, in some cases, of such information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this information collection to the OMB during this comment period in order to obtain the full three year clearance from them. The Commission is requesting an extension (no change in the reporting requirement). There is no change in the estimated number of respondents/responses or annual burden hours.

The Commission published a Public Notice on November 1998 which established various procedural guidelines related to the Commission's processing of petitions for preemption pursuant to Section 253 of the Communications Act of 1934, as amended. The Commission will use the information to discharge its statutory mandate relating to the preemption of state or local statutes or other state or local legal requirements.

Section 253 of the Communications Act of 1934, as amended; added by the Telecommunications Act of 1996, requires the Commission, with certain important exceptions, to preempt the enforcement of any state or local statute

or regulation, or other state or local legal requirement (to the extent necessary) that prohibits or has intrastate telecommunications service. The Commission's consideration of preemption begins with the filing of a petition by an aggrieved party. The petition is placed on public notice and comment on by others. The Commission's decision is based on public record, generally composed of the petition and comments. The Commission has considered a number of preemption items since the passage of the Telecommunications Act of 1996, and believes it in the public interest to inform the public of the information necessary to support its full consideration of the issues likely to be involved in preemption actions. In order to render a timely and informed decision, the Commission expects petitioners and commenters to provide it with relevant information sufficient to describe the legal regime involved in the controversy and to establish the factual basis necessary for decision.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E9–9822 Filed 4–29–09; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

April 15, 2009.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before June 29, 2009. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit all your Paperwork Reduction Act (PRA) comments by e-mail or U.S. postal mail. To submit your comments by e-mail send them to *PRA@fcc.gov.* To submit your comments by U.S. mail, mark them to the attention of Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s) send an e-mail to *PRA@fcc.gov* or contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0647.

Title: Annual Survey of Cable Industry Prices (''Price Survey'').

Form Number: FCC Form 333.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; State, Local or Tribal Government.

Number of Respondents and Responses: 758 respondents and 758 responses.

Estimated Time per Response: 10 hours.

Frequency of Response: Annual reporting requirement.

Total Annual Burden: 7,580 hours.

Total Annual Cost: None.

Obligation to Respond: Mandatory. The statutory authority for this information collection is contained in Sections 4(i) and 623(k) of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: If individual respondents to this survey wish to request confidential treatment of any data provided in connection with this survey, they can do so upon written request, in accordance with Sections 0.457 and 0.459 of the Commission's rules. To receive confidential treatment of their data, respondents need only describe the specific information they wish to protect and provide an explanation of why such confidential treatment is appropriate.

Privacy Impact Assessment: No impact(s).

Needs and Uses: Section 623(k) of the Cable Television Consumer Protection and Competition Act of 1992 requires the Commission to publish annually a statistical report on average rates for basic cable service, cable programming service, and equipment. The report must compare the prices charged by cable operators subject to ''effective competition'' and those not subject to effective competition. The data needed to prepare this report is collected using the annual cable industry Price Survey.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E9–9825 Filed 4–29–09; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to OMB for Review and Approval, Comments Requested

April 21, 2009.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collections, as required by the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written PRA comments should be submitted on or before June 1, 2009. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should

advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via Internet at *Nicholas_A._Fraser@omb.eop.gov* or via fax at (202) 395–5167; and to Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554, or via Internet at *Cathy.Williams@fcc.gov* and/or *PRA@fcc.gov*. Include in the comments the OMB control number of the collection as shown in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Cathy Williams at (202) 418–2918, or via Internet at *Cathy.Williams@fcc.gov,* and/or *PRA@fcc.gov*. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0687.

Title: Access to Telecommunications Equipment and Services by Persons with Disabilities, CC Docket No. 87–124.

Form Number: Not Applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 1,268 respondents; 22,500,000 responses.

Estimated Time per Response: 1 second (0.000278 hours) to 15 seconds (0.004167 hours).

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

Total Annual Burden: 6,693 hours.

Total Annual Cost: $266,280.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in section 710 of the Communications Act of 1934, as amended, 47 U.S.C. 610, and Public Law 100–394, the ''Hearing Aid Compatibility Act of 1988,'' 102 Stat. 976, Aug. 16, 1988.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information from individuals.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 68.224—Notice of non-hearing aid compatibility. Every non-hearing aid compatible telephone offered for sale to the public on or after August 17, 1989, whether previously-registered, newly registered or refurbished shall (a) contain in a conspicuous location on the surface of its packaging a statement that the telephone is not hearing aid compatible, or if offered for sale without a surrounding package, shall be affixed with a written statement that the telephone is not hearing aid compatible; and (b) be accompanied by instructions in accordance with 47 CFR 62.218(b)(2).

47 CFR 68.300—Labeling requirements. As of April 1, 1997, all registered telephones, including cordless telephones, manufactured in the United States (other than for export) or imported for use in the United States, that are hearing aid compatible shall have the letters ''HAC'' permanently affixed.

The information collections for both rules contain third party disclosure and labeling requirements. The information is used primarily to inform consumers who purchase and/or use telephone equipment whether the telephone is hearing aid compatible.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E9–9826 Filed 4–29–09; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Radio Broadcasting Services; AM or FM Proposals To Change the Community of License

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The following applicants filed AM or FM proposals to change the community of license: ADVANCED MODULATION BROADCASTING, LLC, Station NEW, Facility ID 161332, BNP–20090407AJH, From SOUTH HILLS, NV, To WASHOE CITY, NV; BRISTOL BROADCASTING COMPANY, INC., Station WNPC–FM, Facility ID 73346, BMPH–20090407AIO, From NEWPORT, TN, To WHITE PINE, TN; CBL INVESTMENTS, LLC, Station KBZB, Facility ID 78999, BMPH–20090408AQQ, From SANTA CLARA, UT, To HURRICANE, UT; DIXIE COLLEGE, Station KXDS, Facility ID 173065, BMPED–20090408AAA, From ST. GEORGE, UT, To SANTA CLARA, UT; EDUCATIONAL MEDIA FOUNDATION, Station KKLV, Facility ID 52903, BMPH–20090407AJD, From TURRELL, AR, To WEINER, AR; EDUCATIONAL MEDIA FOUNDATION, Station WKVF, Facility ID 859, BMPH–20090407AJE, From GERMANTOWN, TN, To BARTLETT, TN; SAGA COMMUNICATIONS OF NEW ENGLAND, LLC, Station WYNZ, Facility ID 58536, BPH–20090320AAY, From WESTBROOK, ME, To SOUTH PORTLAND, ME; SHINING LIGHT MINISTRIES, Station KPCJ, Facility ID 174806, BMPED–20090320ABJ, From YANKTON, SD, To ELK POINT, SD.

DATES: Comments may be filed through June 29, 2009.

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

FOR FURTHER INFORMATION CONTACT: Tung Bui, 202–418–2700.

SUPPLEMENTARY INFORMATION: The full text of these applications is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW., Washington, DC 20554 or electronically via the Media Bureau's Consolidated Data Base System, *http://svartifoss2.fcc.gov/prod/cdbs/pubacc/prod/cdbs_pa.htm.* A copy of this application may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com.*

Federal Communications Commission.

James D. Bradshaw,

Deputy Chief, Audio Division, Media Bureau.

[FR Doc. E9–9974 Filed 4–29–09; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes

and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 26, 2009.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) P.O. Box 55882, Boston, Massachusetts 02106–2204:

1. Dime Mutual Holding Company; to become a mutual bank holding company by acquiring 100 percent of the voting shares of Dime Bank, both of Norwich, Connecticut.

Board of Governors of the Federal Reserve System, April 27, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–9917 Filed 4–29–09; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on the agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. A copy of the agreement is available through the Commission's Web site (*http://www.fmc.gov*) or by contacting the Office of Agreements at (202)-523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012057–003.

Title: CMA CGM/Maersk Line Space Charter, Sailing and Cooperative Working Agreement Asia to USEC and PNW–Suez/PNW & Panama Loops.

Parties: A.P. Moller-Maersk A/S and CMA CGM S.A.

Filing Party: Wayne R. Rohde, Esq.; Sher and Blackwell LLP; 1850 M Street, NW., Suite 900; Washington, DC 20036.

Synopsis: The amendment would add Hyundai Merchant Marine Co., Ltd. as a party to the agreement, delete Singapore from the geographic scope, make adjustments in vessel provision, revise the duration of the agreement, and restate the agreement. The parties request expedited review.

By Order of the Federal Maritime Commission.

Dated: April 24, 2009.

Karen V. Gregory,

Secretary.

[FR Doc. E9–9841 Filed 4–29–09; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants:

Pota Global Logistics (USA) Inc., 2384 E. Pacific Place, Rancho Domingez, CA 90220, Officer: John J. Brown, President (Qualifying Individual).

American & Caribbean Shipping Inc., 13 East Tremont Ave., Bronx, NY 10453, Officer: Nuris E. Minaya, President (Qualifying Individual).

E-Freight Solutions Inc., 1150 South Monterey Street, Alhambra, CA 91801, Officers: Joey Tam, President (Qualifying Individual), Yu C. Lee, Secretary.

Alnour Investments, 438 East Katella Ave,. Orange, CA 92867, Officers: Denise Scott, Partner (Qualifying Individual), Khalid Elbarq, Partner.

Cargo Experts Corp., 8255 West Sunrise Blvd., Unit 169, Plantation, FL 33322, Officer: Stephanie Bodner, President (Qualifying Individual).

Oceanwind International, Inc. dba OWI; The Broadwell Group, 418 S. Prospect Ave., Redondo Beach, CA 90277, Officer: Amitabh Vw Mittal, Treasurer (Qualifying Individual).

Tuvia Italia S.p.A., Via Quintillano, 31/A, Milano 20138, Italy, Officers: Martina Dacca, Vice President (Qualifying Individual), Marco Orilo, President.

Flash Forwarding, Inc., 169 Spencer Avenue, Lynbrook, NY 11563, Officer: Barbara A. Ercole, President (Qualifying Individual).

Direct Services Solutions, Inc., 2 Giralda Farms, Madison Ave., P.O. Box 880, Madison, NJ 07940–0880, Officer: Jens F. Wessel, Vice President Sales (Qualifying Individual).

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants:

Phil-Ex Cargo, Inc., 94–1018 Awalai Street, Waipahu, HI 96797, Officer: Narcisco Gamiao, Jr., President (Qualifying Individual).

Eagle Maritime Inc., 115 River Road, Edgewater, NJ 07020, Officer: Rajiv W. Dixit, President (Qualifying Individual).

NMT USA, Inc., 4815 Gulf Boulevard, Saint Petersburg, FL 33706, Officer: Kevin J. Skoglund, Secretary (Qualifying Individual).

Three Oceans Transport Inc., 3001 Rocky Point Dr., Tampa, FL 33607, Officer: Micheal G. Elliott, Vice President (Qualifying Individual).

Cargo Service Center, Inc., 440 McClellan Highway, East Boston, MA 02128, Officer: Frank Yuen, Vice President (Qualifying Individual).

Link Lines, Inc., 234 Main Street, Unit 1, Lincoln Park, NJ 07035, Officer: Charles B. Audi, President, (Qualifying Individual).

Royalty Eximport Inc., 8422 NW. 70th Street, Miami, FL 33166, Officers: Clara L. Suarez, Vice President, (Qualifying Individual), Gonzalo Rodriguez, President.

Embarques Colonial Corporation, 1334 NW. 29th Street, Miami, FL 33142, Officer: Eduan Sanchez, Vice President, (Qualifying Individual).

Air Commerce Customs Brokers, Inc., 149–09 183rd Street, 2nd Floor, Springfield Gardens, NY 11413,

Officer: Frank Chen, Vice President, (Qualifying Individual).
TMTUSA, Inc. 33 Wethersfield Road, Nashua, NH 03062, Officers: Catherine J. Hagerman, Ofc. Manager, (Qualifying Individual), Veronique Cossard, President.
Blue Cargo Group, LLC, 147–45 Farmers Blvd., Jamaica, NY 11434, Officers: Joel Switsky, Director, Khalid M. Aziz, Director, (Qualifying Individuals), Steven J. Periman, Director.
Express Logistics Group, Inc., 14439 S. Avalon Blvd., Gardena, CA 90248, Officers: Daniel O'Brien, Operations Manager, (Qualifying Individual), Timothy Stewart, Director.
Express 21, Inc., 144–45 156th Street, #2, Jamaica, NY 11434, Officer: Ted T. Kim, President, (Qualifying Individual).
Octopus Line Corporation, 8358 NW 66th Street, Miami, FL 33166, Officers: Holmes A. Cruz, President, (Qualifying Individual), Zulema L. Diaz, Secretary.
Optima Cargo & Logistics Inc. dba Optima Express, 1033 SW 125 Place, Miami, FL 33184, Officers: Mario A. Orozco, Operations Manager, (Qualifying Individual), Juan C. Nunez, President.
Trips, Inc., 236 Pleasant Street, Methuen, MA 01844, Officer: Amale S. Najjar, President, (Qualifying Individual).
Savannah Marine Terminal, Inc. dba SMT Logistics, 380 Magazine Ave., Savannah, GA 31415, Officer: Victor E. Vanderlugt, President, (Qualifying Individual).
Mondo-Comm International LLC, 17 Main Street, Bloomingdale, NJ 07403, Officer: Joseph Esposito, Operating Manager, (Qualifying Individual).
Astro Freight, Inc., 21 Vermillion, Irvine, CA 92603, Officer: Halying Chen, CEO, (Qualifying Individual).
Seastar, LLC, 6309 Schefer Road, Dearborn, MI 48126, Officers: Zeinas Jaber, Vice President, (Qualifying Individual), Fida Mourtada, Member.
APM Global Logistics USA Inc., dba Damoo Damco Sea and Air Damco Maritime; Damoco USA, DSL Star Express, Giralda Farms, Madison Ave., P.O. Box 880, Madison, NJ 07940–0880, Officer: Jens F. Wessel, Vice President, Sales, (Qualifying Individual).
Zenith Global Logistics, LLC, 210 Dehart Motor Terminal Rd., SW, Conover, NC 28613, Officers: Brian L. Baiers, Asst. Secretary, (Qualifying Individual), Jack L. Hawn, Member Manager.
Falcon Global Edge, Inc., 88 Black Falcon Ave., Boston, MA 02210, Officers: Richard Fisher, President, (Qualifying Individual).
Elite Transporation Services, LLC, 6600 NE 78th Ct., Portland, OR 97218, Officer: John T. Kooda, Secretary, (Qualifying Individual).
Eurosur Logistics LLC, 1519 NW 82nd Ave., Miami, FL 33126, Officers: Gilberto A. Altuve, MGRM, (Qualifying Individual), Enrique J. Aguerrevere, MGRM.
Salmad Ocean Line & Logistics, Inc., 245 Southfield Parkway, Ste. 100, Forest Park, GA 30297, Officer: Amadi K. Jah, President, (Qualifying Individual).
Bellville Rodair International Inc., 900 Milik Street, Unit 2, Cateret, NJ 07008, Officers: Paul F. McCauley, Vice President, (Qualifying Individual), Patrick Cullen, Chairman.
CDS Global Logistics, Inc., One Cross Island Plaza, Rosedale, NY 11422, Officers: Henry Wiseman, President, (Qualifying Individual), Danston Lam, Sr. Vice President.
Alps Logistics (USA), Inc., 1845 West 205th Street, Torrance, CA 90501, Officers: Katsuyuki Hosono, Vice President, (Qualifying Individual), Hiden Yokoyama, President.
Global Forwarding Enterprises Limited Liability Company, 49 Hedgerow Lane, Manalapan, NJ 07726, Officers: Thomas J. Dulski, Manager, (Qualifying Individual), Pavel Kapelnikon, Gen. Manager.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants:

Nidal Brahimi, 52 Southgate Road, Franklin, MA 02038, Sole Proprietor.
G. A. Becnel, Inc., 3311 Ernest Street, Lake Charles, LA 70601, Officer: Nelda J. Becnel, President, (Qualifying Individual).
Worldwide Logistics of Columbus, 6663 Huntley Road, Columbus, OH 43229, Officer: Kwadwo W. Asante, Finance Officer, (Qualifying Individual).
Santiago Cargo Express, Corp., 96–04 Jackson Mill Rd., East Elmurst, NY 11369, Officer: Lupe Fernandez, President, (Qualifying Individual).
Kronoz International SA de CV, Av. Vasconcelos 109 L @–C, Col. Del Valle San Pedro Garza, Garcia Nuevo Leon C.P. Mexico 66220, Officers: Alejandro L. Lopez, CEO, (Qualifying Individual), Daniel S. Martinez, Chairman.
Airland Logistics Inc., 11811 N. Freeway, Ste. 547, Houston, TX 77060, Officers: Michael P. Scales, President, (Qualifying Individual), Jan Jensen, CEO.
Nor-Cal Moving Services, 2001 Marina Boulevard, San Leandro, CA 94577–3204, Officers: Anthony A. Vukovic, Vice President, (Qualifying Individual), Peter Mazzetti, Jr., President.
Supreme International Ltd., 354 Manistee Ave., Calumet City, IL 60409, Officer: Bosun Dominic, Operating Manager, (Qualifying Individual).
Mar Logistics, Inc., 3 Vista Street, Roslindale, MA 02131, Officers: Marco A. Olivera, Secretary, (Qualifying Individual), Sophia Giontzis, President.
Air Sea Express, Inc., 315 Harbor Way, So. San Francisco, CA 94080, Officers: Jean Thompson, Secretary, (Qualifying Individual), Roland Thompson, President.
Carolina Shipping Company, L.P. dba Carolina Logistics Ltd., 1064 Gardner Road, Charleston, SC 29407, Officer: Dennis Forsberg, President, (Qualifying Individual).
Ocean Wings Logistics, Inc., 3340–C Greens Rd., Ste. 550, Houston, TX 77032, Officers: Maria R. Banuelos, Office Manager, (Qualifying Individual), Thomas S. Pessarra, President.
L.E. Coppersmith, Inc. dba Adrienne Shipping Line, Inc., 525 S. Douglas Street, El Segundo, CA 90245, Officer: Lew E. Coppersmith, President, (Qualifying Individual).

Dated: April 24, 2009.

Karen V. Gregory,

Secretary.

[FR Doc. E9–9834 Filed 4–29–09; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under The Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Trans #	Acquiring	Acquired	Entities
TRANSACTIONS GRANTED EARLY TERMINATION—03/19/2009			
20090312	General Electric Company	Teleflex Incorporated	Airfoil Technologies International Singapore Pte. Ltd.
20090314	Mr. Alexander Otto	Developers Diversified Realty Corporation.	Developers Diversified Realty Corporation.
TRANSACTIONS GRANTED EARLY TERMINATION—03/20/2009			
20090332	Triumph Group, Inc	TMC Aerospace, Inc	Airframe Spares and Logistics, Inc. Mexmil China, Inc. Mexmil Global Services, Inc. The Mexmill Company.
20090334	Gores Capital Partners II, L.P	Westwood One, Inc	Westwood One, Inc.
20090341	Auto Club Insurance Association	GMAC LLC	MEEMIC Insurance Company. MEEMIC Insurance Services Corporation.
20090342	Broadpoint Securities Group, Inc	Eric J. Gleacher	Gleacher Holdings LLC. Gleacher Partners Inc.
20090344	Petrohawk Energy Corporation	George B. Kaiser	Kaiser Trading, LLC.
20090345	Oglethorpe Power Corporation	Dynegy Inc	Heard County Power L.L.C.
TRANSACTIONS GRANTED EARLY TERMINATION—03/23/2009			
20090323	Saw Mill Capital Partners, L.P	Filtrona plc	Filtrona Extrusion Massachusetts, LLC. Filtrona Extrusion USA, Inc.
20090337	First Solar, Inc	OptiSolar Holdings LLC	OptiSolar Holdings LLC.
20090346	3i Group plc	BFI Co., LLC	Phibro Animal Health Corporation.
20090347	Dr. Phillip Frost	OPKO Health, Inc	OPKO Health, Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—03/27/2009			
20090343	International Petroleum Investment Company.	NOVA Chemicals Corporation	NOVA Chemicals Corporation.
TRANSACTIONS GRANTED EARLY TERMINATION—03/30/2009			
20090328	NRG Energy, Inc	Reliant Energy, Inc	RERH Holdings, LLC.
20090356	Platinum Equity Capital Partners II, L.P.	The David C. Copley Trust	The Copley Press, Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—03/31/2009			
20090355	Gilead Sciences, Inc	CV Therapeutics, Inc	CV Therapeutics, Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—04/02/2009			
20090200	BASF SE	Ciba Holding Inc	Ciba Holding Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—04/03/2009			
20090357	Valero Energy Corporation	VeraSun Energy Corporation	VeraSun Energy Corporation.
20090358	Deutsche Lufthansa AG	Austrian Airlines AG	Austrian Airlines AG.
TRANSACTIONS GRANTED EARLY TERMINATION—04/07/2009			
20090349	Computershare Limited	Eric S. Kurtzman	Eric S. Kurtzman Inc. Jonathan A. Carson, Inc. KCC Express LLC. KCC Global Securities LLC. Kurtzman Carson Consultants LLC. Schedule G Ventures LLC.
20090350	Computershare Limited	Jonathan A. Carson	Eric S. Kurtzman Inc. Jonathan A. Carson, Inc. KCC Express LLC. KCC Global Securities LLC. Kurtzman Carson Consultants LLC. Schedule G Ventures LLC.

Trans #	Acquiring	Acquired	Entities
TRANSACTIONS GRANTED EARLY TERMINATION—04/14/2009			
20090361	Taiyo Nippon Sanso Corporation	Caxton Global Investments Limited	Caxton-Iseman (Holdings) Propane I Corp. Caxton-Iseman (Holdings) Propane II Corp. Caxton-Iseman (Propane) II, L.P. VNG Holdings II LLC. VNG Holdings Inc.
20090364	Cisco Systems Inc	Pure Digital Technologies, Inc	Pure Digital Technologies, Inc.
20090366	IPC Holdings, Ltd	Max Capital Group Ltd	Max Capital Group Ltd.
20090373	Petro-Canada	Suncor Energy Inc	Suncor Energy Inc.
20090374	Suncor Energy Inc	Petro-Canada	Petro-Canada.
TRANSACTIONS GRANTED EARLY TERMINATION—04/15/2009			
20090375	Sherman WSC Acquisition Corp	ED&F Man Holdings Limited	ED&F Man Korea Limited. ED&F Man Liquid Products Inc. Westway (Australia) Pty. Ltd. Westway Feed Products, Inc. Westway Terminal Company Inc. Westway Terminal Poland Sp. Zoo. Westway Terminals Hibernian Limited. Westway Terminals Nederland B.V. Westway Terminals UK Limited.
TRANSACTIONS GRANTED EARLY TERMINATION—04/17/2009			
20090379	New Gold Inc	Western Goldfields Inc	Western Goldfields Inc.
20090383	Victory Acquisition Corp	VantagePoint CDP Partners, L.P	TouchTunes Corporation.
20090385	Spectrum Equity Investors V, L.P	Ryan Finley	SM Holdco LLC.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Contact Representative, or Renee Hallman, Contact Representative, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room H–303, Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E9–9871 Filed 4–29–09; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel. Member Conflict: Tumor Progression and Therapy.

Date: May 15, 2009.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Manzoor Zarger, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6208, MSC 7804, Bethesda, MD 20892. (301) 435–2477. *zargerma@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel. Cardiovascular Pathobiology.

Date: May 18, 2009.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Ai-Ping Zou, MD, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892. 301–435–1777. *zouai@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel. Cardiac Channels, Defibrillation and Postural Tachycardia.

Date: May 20, 2009.

Time: 3 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Olga A. Tjurmina, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7814, Bethesda, MD 20892. (301) 451–1375. *ot3d@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel. Members conflict applications from IRAP and NAME.

Date: May 21, 2009.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting).

Contact Person: Elizabeth Koss, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892. (301) 435–1721. *kosse@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 22, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–9659 Filed 4–29–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Behavioral Genetics and Epidemiology Member Conflicts.

Date: May 8, 2009.

Time: 11 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Heidi B. Friedman, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1012A, MSC 7770, Bethesda, MD 20892, 301–435–0906, *hfriedman@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Neurodevelopment and Cellular Metabolism.

Date: May 19–20, 2009.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting)

Contact Person: Carol Hamelink, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5040H, MSC 7850, Bethesda, MD 20892, (301) 451–1328, *hamelinc@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Neurophysiology and Neuropharmacology.

Date: May 19–20, 2009

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting)

Contact Person: Peter B. Guthrie, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7850, Bethesda, MD 20892, (301) 435–1239, *guthriep@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Methodology and Measurement in the Behavioral and Social Sciences.

Date: May 21–22, 2009.

Time: 11 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting)

Contact Person: Jose H. Guerrier, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–435–1137, *guerriej@csr.nih.gov*.

Name of Committee: Immunology Integrated Review Group, Vaccines Against Microbial Diseases Study Section.

Date: May 28–29, 2009.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Washington, DC, 1515 Rhode Island Avenue, NW., Washington, DC 20005.

Contact Person: Jian Wang, MD, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, MSC 7812, Bethesda, MD 20892, (301) 435–2778, *wangjia@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict SEP from Neurotechnology.

Date: May 28, 2009.

Time: 11 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Aidan Harnpson, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5199, MSC 7850, Bethesda, MD 20892, (301) 435–0634, *hampsona@csr.nih.gov*.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering, Integrated Review Group Medical Imaging Study Section.

Date: May 31–June 1, 2009.

Time: 7 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington DC/Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Contact Person: Xiang-Ning Li, MD, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7854, Bethesda, MD 20892, 301–435–1744, *lixiang@csr.nih.gov*.

Name of Committee: Oncology 1—Basic Translational Integrated Review Group, Tumor Microenvironment Study Section.

Date: June 1–2, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Mayflower Park Hotel, 405 Olive Way, Seattle, WA 98101.

Contact Person: Eun Ah Cho, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6202, MSC 7804, Bethesda, MD 20892, (301) 451–4467, *choe@csr.nih.gov*.

Name of Committee: Musculoskeletal, Oral and Skin Sciences, Integrated Review Group, Arthritis, Connective Tissue and Skin Study Section.

Date: June 1–2, 2009.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Columbia Hotel, 10207 Wincopin Circle, Columbia, MD 21044.

Contact Person: Aftab A. Ansari, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7814, Bethesda, MD 20892, (301) 594–6376, *ansaria@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Clinical Molecular Imaging.

Date: June 1–2, 2009.

Time: 6 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington DC/Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Contact Person: Eileen W. Bradley, DSC, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5100, MSC 7854, Bethesda, MD 20892, (301) 435–1179, *bradleye@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93892, 93B93, National Institutes of Health, HHS)

Dated: April 20, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–9665 Filed 4–29–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; P30 Research Center.

Date: June 1, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Susan Sullivan, PhD, Scientific Review Officer, National Institute on Deafness and Other Communication Disorders, 6120 Executive Blvd Ste., 400C, Rockville, MD 20852, 301–496–8683, *sullivas@mail.nih.gov*.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; R03 Chemical Senses.

Date: June 10, 2009.

Time: 10 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call)

Contact Person: Susan Sullivan, PhD, Scientific Review Officer, National Institute on Deafness and Other, Communication Disorders, 6120 Executive Blvd Ste., 400C, Rockville, MD 20852, 301–496–8683, *sullivas@mail.nih.gov*.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; R03 Voice, Speech and Language.

Date: June 11, 2009.

Time: 10:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call)

Contact Person: Shiguang Yang, DVM, PhD, Scientific Review Administrator, Division of Extramural Activities NIDCD, NIH, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; R03 Hearing and Balance.

Date: June 12, 2009.

Time: 10 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call)

Contact Person: Shiguang Yang, DVM, PhD, Scientific Review Administrator, Division of Extramural Activities, NIDCD, NIH, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; CDRC Conflicts.

Date: June 24, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call)

Contact Person: Christine A. Livingston, PhD, Scientific Review Officer, Division of Extramural Activities, National Institutes of Health/NIDCD, 6120 Executive Blvd.—MSC 7180, Bethesda, MD 20892, (301) 496–8683, *livingsc@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National institutes of Health, HHS)

Dated: April 21, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–9667 Filed 4–29–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism. Initial Review Group Clinical, Treatment and Health Services. Research Review Subcommittee.

Date: June 1–2, 2009.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Hotel at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Katrina L. Foster, PhD, Scientific Review Officer, National Institute on Alcohol Abuse & Alcoholism, National Institutes of Health, 5635 Fishers Lane, Rm. 2019, Rockville, MD 20852. 301–443–4032. *katrina@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271 Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: April 21, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–9666 Filed 4–29–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel. Member SEP.

Date: May 1, 2009.

Time: 12 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Jonathan Arias, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7840, Bethesda, MD 20892, 301–435–2406, *ariasj@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 20, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–9664 Filed 4–29–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Public Health Research on Down Syndrome and Interventions for Youth, Funding Opportunity Announcement (FOA) DD09–005; and Young Adults With Fetal Alcohol Spectrum Disorders (U84), FOA DD09–006, Initial Review

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) announce the aforementioned meeting.

Times and Dates:
1 p.m.–4 p.m., May 19, 2009 (Closed).
1 p.m.–4 p.m., May 20, 2009 (Closed).
1 p.m.–4 p.m., May 21, 2009 (Closed).

Place: Teleconference.

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 initial review, discussion, and evaluation of applications received in response to ''Public Health Research on Down Syndrome and Interventions for Youth, FOA DD09–005; and Young Adults with Fetal Alcohol Spectrum Disorders (U84), FOA DD09–006.''

Contact Person for More Information: Geneva L. Cashaw, Designated Federal Officer, CDC, 4770 Buford Highway, NE., Mailstop K92, Atlanta, GA 30341, Telephone 770–488–8294. 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: April 24, 2009.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E9–9951 Filed 4–29–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Subcommittee for Dose Reconstruction Reviews (SDRR), Advisory Board on Radiation and Worker Health (ABRWH), National Institute for Occupational Safety and Health (NIOSH)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention, announce the following meeting for the aforementioned subcommittee:

Time and Date: 11 a.m.–2 p.m., May 6, 2009

Place: Teleconference.

Status: Open to the public, but without a public oral comment period. To access by teleconference dial, 1(866)659–0537, Participant Pass Code 9933701.

Background: The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines that have been promulgated by the Department of Health and Human Services (HHS) as a final rule; advice on methods of dose reconstruction which have also been promulgated by HHS as a final rule; advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program; and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC).

In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to CDC. NIOSH implements this responsibility for CDC. The charter was issued on August 3, 2001, renewed at appropriate intervals, and will expire on August 3, 2009.

Purpose: The Advisory Board is charged with (a) Providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and (c) upon request by the Secretary, HHS, advise the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class. The Subcommittee for Dose Reconstruction Reviews was established to aid the Advisory Board in carrying out its duty to advise the Secretary, HHS, on dose reconstruction.

Matters to be Discussed: The agenda for the Subcommittee meeting includes preparation of a letter report to the Secretary of Health and Human Services on the first 100 dose reconstruction cases reviewed; and the review of the Board's Case Selection Criteria for dose reconstruction reviews.

The agenda is subject to change as priorities dictate.

In the event an individual cannot participate, written comments may be submitted. Any written comments received will be provided at the teleconference meeting and should be submitted to the contact person below in advance of the teleconference meeting.

This teleconference meeting was scheduled because the agenda items need to be addressed by the Subcommittee prior to the full Advisory Board meeting, which is scheduled to convene on May 12, 2009. Therefore, this **Federal Register** notice is being published less than fifteen days prior to the meeting date.

Contact Person for More Information: Theodore Katz, Executive Secretary, NIOSH, CDC, 1600 Clifton Road, NE., Mailstop E–20, Atlanta, Georgia 30333, Telephone (513) 533–6800, Toll Free 1(800)CDC–INFO, E-mail *ocas@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: April 24, 2009.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E9–9949 Filed 4–29–09; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control

Special Emphasis Panel (SEP): Impact of Tic Disorders, including Tourette Syndrome, in Youth, on Individuals, Families and Communities (U01),

Funding Opportunity Announcement (FOA) DD09–003; and Prevention of Health Risk Behaviors among Youth with Attention-Deficit/Hyperactivity Disorder (U01), FOA DD09–004.

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.

Times and Dates:
1 p.m.–4 p.m., May 14, 2009 (Closed).
1 p.m.–4 p.m., May 15, 2009 (Closed).

Place: Teleconference.

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 ''Impact of Tic Disorders, including Tourette Syndrome, in Youth, on Individuals, Families and Communities (U01), FOA DD09–003; and Prevention of Health Risk Behaviors among Youth with Attention-Deficit/Hyperactivity Disorder (U01), FOA DD09–004.''

Contact Person for More Information: Geneva L. Cashaw, Designated Federal Officer, CDC, 4770 Buford Highway, NE., Mailstop K92, Atlanta, GA 30341, Telephone 770–488–8294.

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: April 24, 2009.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E9–9948 Filed 4–29–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel Loan Repayment Applications.

Date: May 11, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, Room 3AN18, 45 Center Drive, Bethesda, MD 20892. (Virtual Meeting)

Contact Person: Margaret J. Weidman, PhD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18B, Bethesda, MD 20892, 301–594–3663, *weidmanmanigms.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93375, Minority Biomedical Research Support; 93821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: April 21, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–9661 Filed 4–29–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory General Medical Sciences Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory General Medical Sciences Council.

Date: May 21–22, 2009.

Closed: May 21, 2009, 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, Conference Rooms E1 & E2, 45 Center Drive, Bethesda, MD 20892.

Open: May 22, 2009, 8 a.m. to adjournment.

Agenda: For the discussion of program policies and issues, opening remarks, report of the Director, NIGMS, and other business of the Council.

Place: National Institutes of Health, Natcher Bulidinig, Conference Rooms E1 & E2, 45 Center Drive, Bethesda, MD 20892.

Contact Person: Ann A. Hagan, PhD, Associate Director for Extramural Activities, NIGMS, NIH, DHHS, 45 Center Drive, Room 2AN24H MSC6200, Bethesda, MD 20892–6200. (301) 594–4499. *hagana@nigms.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http:/www.nigms.nih.gov/about/advisory_council.html,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: April 21, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–9663 Filed 4–29–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–D–0195]

Small Entity Compliance Guide: Bottled Water: Uranium; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Bottled Water: Uranium—Small Entity Compliance Guide'' for a direct final rule published in the **Federal Register** of March 3, 2003. This small entity compliance guide (SECG) is intended to set forth in plain language the requirements of the regulation and to help small businesses understand the regulation.

DATES: Submit written or electronic comments on the SECG at any time.

ADDRESSES: Submit written requests for single copies of the SECG to the Division of Plant and Dairy Food Safety (HFS–317), Office of Food Safety, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, or fax your request to 301–436–2651. Send one self-addressed adhesive label to assist that office in processing your request.

Submit written comments on the SECG to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments on the SECG to *http://www.regulations.gov*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the SECG.

FOR FURTHER INFORMATION CONTACT: Paul South, Center for Food Safety and Applied Nutrition (HFS–317), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–1640.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of March 3, 2003 (68 FR 9873), FDA issued a direct final rule amending its bottled water quality standard regulations by establishing an allowable level for the contaminant uranium. FDA also retained the existing allowable levels for combined radium-226/-228, gross alpha particle radioactivity, and beta particle and photon radioactivity. On June 9, 2003, FDA confirmed the effective date of December 8, 2003, for the direct final rule (68 FR 34272).

FDA examined the economic implications of the direct final rule as required by the Regulatory Flexibility Act (5. U.S.C. 601–612) and determined that the rule would have a significant economic impact on a substantial number of small entities. In compliance with section 212 of the Small Business Regulatory Enforcement Fairness Act (Public Law 104–121), FDA is making available this SECG stating in plain language the legal requirements of the March 3, 2003, direct final rule set forth in 21 CFR part 165 concerning the contaminant uranium.

FDA is issuing this SECG as level 2 guidance consistent with FDA's good guidance practices regulation (21 CFR 10.115(c)(2)). The SECG represents the agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The SECG and received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.cfsan.fda.gov/guidance.html*.

Dated: April 24, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9–9867 Filed 4–29–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–D–0196]

Small Entity Compliance Guide: Bottled Water: Arsenic; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Bottled Water: Arsenic—Small Entity Compliance Guide'' for a final rule published in the **Federal Register** of June 9, 2005. This small entity compliance guide (SECG) is intended to set forth in plain language the requirements of the regulation and to help small businesses understand the regulation.

DATES: Submit written or electronic comments on the SECG at any time.

ADDRESSES: Submit written requests for single copies of the SECG to the Division of Plant and Dairy Food Safety (HFS–317), Office of Food Safety, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, or fax your request to 301–436–2651. Send one self-addressed adhesive label to assist that office in processing your request.

Submit written comments on the SECG to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments on the SECG to *http://www.regulations.gov*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the SECG.

FOR FURTHER INFORMATION CONTACT: Paul South, Center for Food Safety and Applied Nutrition (HFS–317), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–1640.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 9, 2005 (70 FR 33694), FDA issued a final rule amending its bottled water quality standard regulations by revising the existing allowable level for the contaminant arsenic. This final rule became effective on January 23, 2006.

FDA examined the economic implications of the final rule as required by the Regulatory Flexibility Act (5. U.S.C. 601–612) and determined that the rule would have a significant economic impact on a substantial number of small entities. In compliance with section 212 of the Small Business Regulatory Enforcement Fairness Act (Public Law 104–121), FDA is making available this SECG stating in plain language the legal requirements of the June 9, 2006, final rule set forth in 21 CFR part 165 concerning the contaminant arsenic.

FDA is issuing this SECG as level 2 guidance consistent with FDA's good guidance practices regulation (21 CFR 10.115(c) (2)). The SECG represents the agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The SECG and received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.cfsan.fda.gov/guidance.html*.

Dated: April 24, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9–9870 Filed 4–29–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–D–0198]

Small Entity Compliance Guide: Cochineal Extract and Carmine: Declaration by Name on the Label of All Foods and Cosmetic Products That Contain These Color Additives; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Cochineal Extract and Carmine: Declaration by Name on the Label of All Foods and Cosmetic Products That Contain These Color Additives—Small Entity Compliance Guide.'' The small entity compliance guide (SECG) is being issued for a final rule published in the **Federal Register** of January 5, 2009, and it is intended to set forth in plain language the requirements of the regulation and to help small businesses understand the regulation.

DATES: Submit written or electronic comments on the SECG at any time.

ADDRESSES: Submit written requests for single copies of the SECG to the Division of Petition Review, Office of Food Additive Safety (HFS–265), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, or FAX your request to 301–436–2972. Send one self-addressed adhesive label to assist that office in processing your request. Submit written comments on the SECG to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments on the SECG to *http://www.regulations.gov*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the SECG.

FOR FURTHER INFORMATION CONTACT: James C. Wallwork, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–1303.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of January 5, 2009 (74 FR 207), FDA issued a final rule requiring the declaration of cochineal extract and carmine by name on the label of all foods and cosmetic products that contain these color additives. This final rule becomes effective January 5, 2011.

FDA examined the economic implications of the final rule as required by the Regulatory Flexibility Act (5 U.S.C. 601–612) and determined that the final rule may have a significant economic impact on a substantial number of small entities. In compliance with section 212 of the Small Business Regulatory Enforcement Fairness Act (Public Law 104–121), FDA is making available this SECG stating in plain language the legal requirements of the January 5, 2009, final rule set forth in 21 CFR parts 73 and 101 concerning cochineal extract and carmine.

FDA is issuing this SECG as level 2 guidance consistent with FDA's good guidance practices regulation (21 CFR 10.115(c)(2)). The SECG represents the agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this SECG. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The SECG and received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.cfsan.fda.gov/guidance.html*.

Dated: April 24, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9–9868 Filed 4–29–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Statement of Delegation of Authority

Notice is hereby given that I have delegated to the Director, National Institutes of Health (NIH), the authorities added to the Public Health Service Act by Section 801 of Public Law 110–85, the Food and Drug Administration Amendments Act of 2007, 42 U.S.C. 282(j), as amended, pertaining to the expansion of the Clinical Trial Registry and Results Data Bank described therein. Specifically, the Director is delegated the following authorities:

1. 402(j)(2)(A)(ii)(IV), 42 U.S.C. 282(j)(2)(A)(ii)(IV): The Secretary may make publicly available certain administrative data collected for the registry, as necessary.

2. 402(j)(3)(A)(i), 42 U.S.C. 282(j)(3)(A)(i): To ensure that the Data Bank includes links to results information for those trials that form the primary basis for an efficacy claim or are performed after clearance or approval of the drug or device, under 42 U.S.C. 282(j)(3)(A)(i).

3. 402(j)(3)(A)(ii)(I), 42 U.S.C. 282(j)(3)(A)(ii)(I): To ensure that the Data Bank includes links to specified FDA information.

4. 402(j)(3)(A)(ii)(II), 42 U.S.C. 282(j)(3)(A)(ii)(II): To ensure that the Data Bank includes links to specified NIH information.

5. 402(j)(3)(A)(ii)(iii), 42 U.S.C. 282(j)(3)(A)(ii)(iii): To include links to the FDA and NIH information described above for Data Bank entries for clinical trials submitted to the Data Bank prior to the enactment of FDAAA.

6. 402(j)(3)(C), 42 U.S.C. 282(j)(3)(C): To include in the Data Bank the specified ''basic results'' information for drugs that are approved under section 505 of the Federal Food, Drug and Cosmetic Act or licensed under section 351 of the Public Health Service Act, and for devices that are cleared under section 510(k) of the Federal Food, Drug and Cosmetic Act, or approved under section 515 or 520(m) of the Federal Food, Drug, and Cosmetic Act.

7. 402(j)(3)(D)(vi), 42 U.S.C. 282(j)(3)(D)(vi): To consider the status of World Health Organization consensus data elements for reporting clinical trial results when issuing regulations.

8. 402(j)(3)(D)(vii), 42 U.S.C. 282(j)(3)(D)(vii): To hold a public meeting to provide an opportunity for input from interested parties with regard to the regulations to be issued pursuant to 42 U.S.C. 282(j)(3)(D)(i).

9. 402(j)(3)(I)(iii), 42 U.S.C. 282(j)(3)(I)(iii): To include in the Data Bank tables of information of anticipated and unanticipated serious adverse events and anticipated and unanticipated frequent adverse events, upon the application of 42 U.S.C. 282(j)(3)(I)(ii).

10. 402(j)(3)(I)(iv), 42 U.S.C. 282(j)(I)(iv): To consult with experts in risk communication and post, with the tables described in 42 U.S.C. 282(j)(3)(I)(iii), information to enhance patient understanding and to ensure such tables do not mislead patients or the lay public.

11. 402(j)(4)(B)(i), 42 U.S.C. 282(j)(B)(i): To determine for a specified clinical trial, that posting in the Data Bank of clinical trial information for such clinical trial is necessary to protect the public health, and further, to require by notification that such information be submitted to, and accepted on behalf of the Secretary by, the Director of the National Institutes of Health, in accord with 42 U.S.C. 282(j)(4)(B)(i)(I).

12. 402(j)(5)(A)(iv), 42 U.S.C. 282(j)(5)(A)(iv): To consult with other agencies that conduct human subjects research in accordance with any section of part 46 of title 45, Code of Federal Regulations (or any successor regulation), to determine if such research is an applicable clinical trial and develop, with such agencies, procedures to ensure the submission of clinical trial information.

13. 402(j)(5)(C)(i), 42 U.S.C. 282(j)(5)(C)(i): To use the publicly available information and any other information available to the Secretary about applicable clinical trials to verify the accuracy of submitted results information for the Pilot Quality Control Study.

This delegation will be exercised in accordance with the Department's applicable policies, procedures, guidelines and regulations.

I ratify and affirm any actions taken by you or your subordinates that involved the exercise of the authorities delegated herein prior to the effective date of this delegation. This delegation is effective upon date of signature.

Dated: April 21, 2009.

Charles E. Johnson,

Acting Secretary.

[FR Doc. E9–9699 Filed 4–29–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Reservation Roads

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of submission of information collection to the Office of Management and Budget.

SUMMARY: The Bureau of Indian Affairs (BIA) is submitting the information collection for the Indian Reservation Roads (IRR) Program, OMB Control No. 1076–0161, to the Office of Management and Budget for renewal. The current approval period is approaching expiration; this renewal will allow us to continue to operate the IRR program. This renewal is necessary for tribal participation in the IRR Program and for the allocation of funding for the IRR Program to federally recognized tribal governments for transportation assistance.

DATE: Submit comments on or before June 1, 2009.

ADDRESSES: Submit comments on the information collection to the Desk Officer for the Department of the Interior at the Office of Management and Budget, by fax at (202) 395–5806 or e-mail at *OIRA_DOCKET@omb.eop.gov*. Please send copy of your comments to: LeRoy Gishi, Chief, Division of Transportation, 1849 C Street, NW. MS 4512 MIB, Washington, DC 20240, fax: (202) 208–4696.

FOR FURTHER INFORMATION CONTACT: You may request further information or obtain copies of the proposed information collection request from LeRoy Gishi, Chief, Division of Transportation, telephone (202) 513–7711.

SUPPLEMENTARY INFORMATION:

I. Abstract

This information collection is necessary to allow Federally recognized tribal governments to participate in the IRR Program as defined in 23 U.S.C. 204(a)(1). Some of the information collected determines the allocation of IRR program funds to Indian tribes as described in 23 U.S.C. 202(d)(2)(A).

II. Summary of Public Comments Received

The BIA received comments from one commenter in response to the notice published January 12, 2009 (74 FR 1244), which announced that we would submit this renewal to OMB for approval and provided the 60-day public comment period. The commenter had a number of suggestions that would be appropriate for consideration upon amending the rule; however, because the scope of this public comment period is limited to the information collections, the BIA was not able to accommodate these requests. Comments specific to the information collection included the following. The commenter expressed concern that the word ''some'' in the Brief Description indicated that there were other information collections that BIA did not address. The Brief Description addresses all the information collections associated with Indian Reservation Roads—the word ''some'' indicates that some of these information collections are required to obtain or maintain a benefit (program participation and funding) and others are voluntary. Another comment asked why an applicant must provide documentation that the project meets the definition of an IRR transportation facility and is on the IRR inventory when the information already exists. The BIA requires this information as part of the IRR High Priority Project application because the application is a collection of all information necessary for the Department to make an approval determination based upon criteria established by law. The commenter also stated that they believe that the amount of information could be reduced. The information collection was developed by meetings between tribal members and the BIA. What emerged was a list that met the various needs of the tribe and the requirements of the law which

authorizes the funding for IRR. While the list is long, those data elements can also be helpful to tribes who coordinate projects and transportation activities with other public authorities. It is not all required to be provided in order to participate in the program; that is the reason for default values in the CFR tables. The commenter stated that there is a difference in requested items from region to region because of politics and physical roadway characteristics, and questioned the practical utility of some requested information, suggesting a committee evaluate the need further since not all requested information is listed in the CFR. The BIA participated in many meetings of committees and public hearings when the requirements were developed—the result was a list of requirements that covered all situations, but not necessarily all requirements are needed for each situation. The commenter also stated that too much information is required in certain instances. The BIA has determined that, in those instances, the additional data are beneficial in supporting more accurate decisions rather than using default tables and that it is beneficial to the tribe to include this information. The commenter stated that they believe that the time and cost of submitting certain information far exceeds their estimated amount. The time and cost associated with data collection and submission has been consistently decreasing in the three years prior to this request for comment as improved methods of collection are developed. The estimated time and cost of submitting data indicates that the commenters are increasingly successful in assuring that data are provided for purposes identified. Finally, the commenter stated that use of automated techniques does not abrogate the physical collection of data and that a technological solution may be available with funds for equipment and staff to maintain the automated equipment. In response, the BIA notes that no special equipment is necessary for this information collection, and that more advanced techniques are available but this collection process does not require their use. The BIA did not make any changes to the information collection request for approval in response to these comments.

III. Request for Comments

The BIA requests your comments on this collection concerning: (a) The necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the commenters, such as through the use of automated collection techniques or other forms of information technology.

Please note that an agency may not sponsor or request, and an individual need not respond to, a collection of information unless it has a valid OMB Control Number. OMB has up to 60 days to make a decision on the submission for renewal, but may make the decision after 30 days. Therefore, to receive the best consideration of your comments, you should submit them closer to 30 days than 60 days.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section, room 4516 MIB, during the hours of 8 a.m.–4:30 p.m., EST Monday through Friday except for legal holidays. Before including your address, phone number, e-mail address or other personally identifiable information, be advised that your entire comment—including your personally identifiable information—may be made public at any time. While you may request that we withhold your personally identifiable information, we cannot guarantee that we will be able to do so. All comments from organizations or representatives will be available for review. We may withhold comments from review for other reasons.

IV. Data

OMB Approval Number: 1076–0161.

Title: 25 CFR 170, Indian Reservation Roads.

Brief Description of Collection: Some of the information such as the application of Indian Reservation Roads High Priority Projects (IRRHPP) (25 CFR 170.210), the road inventory updates (25 CFR 170.443), the development of a long range transportation plan (25 CFR 170.411 and 170.412), the development of a tribal transportation improvement program and priority list (25 CFR 170.420 and 170.421) are required to maintain or obtain a benefit (consideration of projects and for program funding from the formula). Some of the information such as public hearing requirements are also required to maintain or obtain a benefit and provides public notification and the opportunity for public involvement (25 CFR 170.437 and 170.439). While others such as data appeals (25 CFR 170.231) and requests for design exceptions (25 CFR 170.456) are voluntary information.

Type of Review: Renewal.

Respondents: Respondents include Federally recognized Indian tribal governments who have transportation needs associated with the IRR Program as described in 25 CFR 170.

Number of Respondents: Varies from 10 to 281.

Estimated Time per Response: The reports require from 30 minutes to 40 hours to complete. An average would be 16 hours.

Frequency of Response: Annually or on an as needed basis.

Total Annual Burden to Respondents: 19,628 hours.

Total Annual Cost to Respondents: $0.

Dated: April 24, 2009.

Sanjeev "Sonny" Bhagowalia,

Chief Information Officer—DOI.

[FR Doc. E9–9921 Filed 4–29–09; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–NWRS–2009–N0016;1265–0000–10137–S3]

McNary and Umatilla National Wildlife Refuges, Benton, Walla Walla, and Franklin Counties, WA, and Morrow and Umatilla Counties, OR

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of the final comprehensive conservation plan, environmental assessment, and finding of no significant impact.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have completed a comprehensive conservation plan, environmental assessment (CCP/EA), and finding of no significant impact (FONSI) for the McNary and Umatilla National Wildlife Refuges (Refuges), which are part of the Mid-Columbia River National Wildlife Refuge Complex (Complex). The CCP/EA was developed to provide a foundation for the management and use of the Refuges. We are furnishing this notice to advise other agencies and the public of the availability of the CCP/EA and FONSI, and the decision to implement Alternative 2 as described in the CCP/EA. The Service's Regional Director for the Pacific Region selected Alternative 2 for managing the Refuges for the next 15 years. The Refuges are located along the Columbia River in the states of Oregon and Washington.

DATES: The CCP/EA and FONSI are completed, implementation may begin immediately.

ADDRESSES: The CCP/EA and FONSI are available for viewing at Mid-Columbia River National Wildlife Refuge Complex, 64 Maple Street, Burbank, WA 99323, and copies on compact disk may be obtained by visiting or writing to the Refuge Complex. These documents are also available for viewing and downloading on the Internet at *http://pacific.fws.gov/planning.*

FOR FURTHER INFORMATION CONTACT: Greg Hughes, Project Leader, Mid-Columbia River National Wildlife Refuge Complex, phone (509) 546–8300.

SUPPLEMENTARY INFORMATION: With this notice, we complete the CCP process for the McNary and Umatilla National Wildlife Refuges that began in 2004 (69 FR 29568, May 24, 2004). The McNary and Umatilla Refuges are part of the National Wildlife Refuge System (NWRS) administered by the Service. The National Wildlife Refuge System Administration Act of 1966 (Refuge Administration Act), as amended, requires all units of the NWRS to be managed in accordance with an approved CCP. A CCP provides management direction, and identifies refuge goals, objectives, and strategies for achieving refuge purposes. We prepared the CCP/EA and FONSI for the McNary and Umatilla Refuges pursuant to the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321–4370d), as amended, and its implementing regulations, the Refuge Administration Act, and Service policies.

McNary Refuge is located in Walla Walla and Franklin Counties, Washington, and Umatilla County, Oregon. Umatilla Refuge is located in Benton County, Washington, and Morrow County, Oregon. Planning for these Refuges was conducted concurrently, because many of the same physical characteristics, management issues, and conservation opportunities occur on, or are relevant to, the management of each of the Refuges.

During the CCP planning process for the Refuges many elements were considered, including management of the Refuges' shrub-steppe, riparian, wetland, and cliff-talus habitats for the long-term conservation of native plants and animals and migratory birds. We identified appropriate actions in the CCP for protecting and sustaining the cultural and biological features of the river islands, the Refuges' wintering waterfowl populations and habitats, the growing migratory shorebird populations that use the Refuges, and threatened, endangered, or rare species. Guidance for maintaining and improving high quality public use programs for hunting, fishing, wildlife observation, photography, environmental education, and interpretation is also provided in the CCP/EA.

Public Comments and Changes to the CCP

We identified and evaluated four alternatives in the Draft CCP/EA for managing the Refuges. The Draft CCP/EA was available for a 30-day public review and comment period, which occurred January 23 through February 23, 2007 (January 29, 2007, 72 FR 4019). Notification was sent to 700 individuals and organizations on our mailing list for this CCP, and public notice was provided in local media and on the Complex Web site.

The Service received 105 comment letters, forms, or emails on the Draft CCP, which were incorporated into, or otherwise responded to, in the final CCP. To address public comments, minor changes and clarifications were made to the final CCP/EA where we considered it appropriate.

CCP Implementation

The Regional Director, U.S. Fish and Wildlife Service, Region 1, signed the FONSI and approved the CCP/EA on May 7, 2007. By implementing the CCP, the Service will manage Refuge resources for migratory birds and will enhance populations of targeted special status species and their habitats. Habitat conditions for migratory waterfowl, shorebirds, threatened and endangered species, and other native wildlife will be improved. The Refuges will emphasize control and reduction of weeds and improvement of riparian, shrub-steppe, island, and cliff habitats. Wildlife-dependent public use will be emphasized with opportunities for hunting, fishing, wildlife observation, photography, interpretation, and environmental education either maintained or improved from present conditions. A Washington State pheasant augmentation/release program will be phased out in two years and camping will be discontinued at Madame Dorion Park. Disturbance to island resources will be reduced through closure of all beach use on Refuge islands.

Dated: January 13, 2009.

David J. Wesley,

Regional Director, Region 1, Portland, Oregon.

[FR Doc. E9–9325 Filed 4–29–09; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: New York University College of Dentistry, New York, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the New York University College of Dentistry, New York, NY. The human remains were removed from Morton County, ND.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by New York University College of Dentistry professional staff in consultation with representatives of the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

At an unknown date, human remains representing a minimum of two individuals were removed from On-A-Slant Village, Ft. Abraham Lincoln, near Bismarck, Morton County, ND, by an unknown collector. In 1925, the human remains were accessioned by the Department of Physical Anthropology at the Museum of the American Indian, Heye Foundation. In 1956, the human remains were transferred to Dr. Theodore Kazamiroff, New York University College of Dentistry. No known individuals were identified. No associated funerary objects are present.

Museum of the American Indian records identify the provenience of the human remains as ''Ft. Abraham Lincoln, near Bismarck, North Dakota.'' Fort Abraham Lincoln is also the site of a Historic Period Mandan Village known as On-A-Slant Village (32MO26). The cranium of one of the individuals is painted with a red pigment matching historically described and archeologically confirmed mortuary customs of the Mandan.

On-A-Slant Village is documented historically, archeologically and by tribal oral traditions as a village of the Plains Village Period dating to A.D. 1450–1785, and occupied by the Nuitadi

subgroup of the Mandan. In 1785, the village was abandoned following a smallpox epidemic and its inhabitants moved to the Knife River region to live alongside the Hidatsa. By 1862, the Mandan, Hidatsa and Arikara lived at the Like-A-Fishook village. In 1937, the three tribes became formally known as the Three Affiliated Tribes of the Fort Berthold Reservation. Consultation evidence supports the identification of the human remains from the On-A-Slant Village as Mandan, and the cultural affiliation as the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

Officials of the New York University College of Dentistry have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of two individuals of Native American ancestry. Officials of New York University College of Dentistry also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Louis Terracio, New York University College of Dentistry, 345 East 24th St, New York, NY 10010, telephone (212) 998–9917, before June 1, 2009. Repatriation of the human remains to the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota may proceed after that date if no additional claimants come forward.

The New York University College of Dentistry is responsible for notifying the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota that this notice has been published.

Dated: April 13, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9–9981 Filed 4–29–09; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: New York University College of Dentistry, New York, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the New York University College of Dentistry, New York City, NY. The human remains were removed from Colfax County, NE.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by New York University College of Dentistry professional staff in consultation with representatives of the Pawnee Nation of Oklahoma.

At an unknown date, human remains representing a minimum of two individuals were removed from a site identified as a Pawnee Burial Site, Schuyler, Colfax County, NE, by an unknown collector. In 1922, the human remains were accessioned by the Department of Physical Anthropology at the Museum of the American Indian, Heye Foundation. In 1956, the human remains were transferred to Dr. Theodore Kazamiroff at the New York University College of Dentistry. No known individuals were identified. No associated funerary objects are present.

Museum of the American Indian records identify the provenience of the human remains as a ''Pawnee Burial Site, Schuyler, Nebraska.'' The cranial morphology of the human remains confirms that they belong to an individual of Pawnee ancestry. Consultations with the Pawnee Nation of Oklahoma confirmed the identification of the human remains from the burial site as Pawnee.

Schuyler, NE, is located along the Loup River, and corresponds to an area of protohistoric (Lower Loup phase) and historic Pawnee villages that have been identified as Pawnee by the Pawnee Nation and archeologists. It is likely that the human remains date to the Lower Loup phase or historic period. The Loup River area was settled by the Skidi Pawnee, one of four Pawnee bands, by 1700. Skidi Pawnee sites are identified in historic documents dating as early as 1718, and they remained the primary Pawnee band in the area for the next century. By 1857, all four Pawnee bands coalesced along the Loup River after disease, warfare and land cessions resulted in a restriction of Pawnee lands. By 1875, the Pawnee left the Loup River and settled on a tract of land in Oklahoma. Today they are known as the Pawnee Nation of Oklahoma.

Officials of the New York University College of Dentistry have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of two individuals of Native American ancestry. Officials of the New York University College of Dentistry also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Pawnee Nation of Oklahoma.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Louis Terracio, New York University College of Dentistry, 345 East 24th St, New York, NY 10010, telephone (212) 998–9917, before June 1, 2009. Repatriation of the human remains to the Pawnee Nation of Oklahoma may proceed after that date if no additional claimants come forward.

The New York University College of Dentistry is responsible for notifying the Pawnee Nation of Oklahoma that this notice has been published.

Dated: April 13, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9–9986 Filed 4–29–09; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: New York University College of Dentistry, New York City, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the control of the New York University College of Dentistry, New York City, NY. The human remains were removed from Mackinaw City, Cheboygan County, MI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the New York University College of Dentistry professional staff in consultation with representatives of the Grand Traverse Band of Ottawa and Chippewa Indians, Michigan and Little Traverse Bay Bands of Odawa Indians, Michigan.

At an unknown date, human remains representing a minimum of one individual were removed from Mackinaw City in Cheboygan County, MI. At an unknown date, the human remains came into the possession of Walter C. Wyman of Chicago, IL. In 1915, Mr. Wyman donated the human remains to the Museum of the American Indian, Heye Foundation, New York City, NY. In 1956, the human remains were transferred to Dr. Theodore Kazamiroff, New York University College of Dentistry. No known individual was identified. No associated funerary objects are present.

Based on the cranial morphology of the human remains, the individual is identified as Native American. Information associated with the human remains identify them as ''----- [illegible] Saugema, Ottawa Tribe.'' The Ottawa are also known by the name Odawa. ''Saugema'' is an Odawa family name in the Mackinaw area and variants are recorded for the Little Traverse Bay Bands of Odawa. Although a surname is listed for the human remains, lineal descendants could not be identified because the specific identity of the individual could not be determined. The identification of a surname indicates that the human remains date to the Historic period.

The area of Mackinaw City corresponds to the territory of the Odawas after European contact. The Odawa people entered the written record in 1615, when the French encountered them at the eastern shores of Lake Huron on the Georgian Bay. Soon after this, the Odawas left the Lower Peninsula of Michigan because of Iroquoian raids, but returned to Michigan after the Iroquois were repelled from the area by the Odawas and other Great Lakes tribes in the mid–1600s. By 1673, the Odawas had established villages at the Straits of Mackinac. One village was located at Michilimackinac, in present-day Mackinaw City. A letter dating to 1710 describes Odawa mortuary practices at Michilimackinac that are consistent with the physical condition of the human remains. Odawa people have remained in the Mackinaw area since their return in the 17th century. In addition, Odawa oral traditions identify the Mackinac area as an area of aboriginal occupation for many generations prior to European contact, and Mackinaw City is part of the ancestral lands of the Little Traverse Bay Bands of Odawa Indians, Michigan.

Officials of the New York University College of Dentistry have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of one individual of Native American ancestry. Officials of the New York University College of Dentistry also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Little Traverse Bay Bands of Odawa Indians, Michigan.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Louis Terracio, New York University College of Dentistry, 345 East 24th St, New York, NY 10010, telephone (212) 998–9917, before June 1, 2009. Repatriation of the human remains to the Little Traverse Bay Bands of Odawa Indians, Michigan may proceed after that date if no additional claimants come forward.

The New York University College of Dentistry is responsible for notifying the Grand Traverse Band of Ottawa and Chippewa Indians, Michigan and Little Traverse Bay Bands of Odawa Indians, Michigan that this notice has been published.

Dated: April 13, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9–9983 Filed 4–29–09; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the control of the Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA. The human remains were removed from the Puget Sound region, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

An assessment of the human remains, catalogue records, and relevant associated documents was made by the Phoebe A. Hearst Museum of Anthropology professional staff in consultation with representatives of Coast Salish speaking tribes, that include Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington; Nisqually Indian Tribe of the Nisqually Reservation, Washington; Port Gamble Indian Community of the Port Gamble Reservation, Washington; Puyallup Tribe of the Puyallup Reservation, Washington; Sauk-Suiattle Indian Tribe of Washington; Skokomish Indian Tribe of the Skokomish Reservation, Washington; Squaxin Island Tribe of the Squaxin Island Reservation, Washington; Stillaguamish Tribe of Washington; Suquamish Indian Tribe of the Port Madison Reservation; Swinomish Indians of the Swinomish Reservation, Washington; Tulalip Tribes of the Tulalip Reservation, Washington; and Upper Skagit Indian Tribe of Washington.

On an unknown date, human remains representing a minimum of one individual (Catalogue record 12–2671) were removed from an unspecified location in the Puget Sound region by the University of California Medical Department. In 1914, the human remains were donated to the Phoebe A. Hearst Museum of Anthropology by Dr. J. V. Cook (Accession number 100DDD). No known individual was identified. No associated funerary objects are present.

Given the absence of associated funerary objects, the antiquity of the human remains is unknown. Puget Sound is located in the aboriginal territory of the Lushootseed-speakers of the Southern Coast Salish people. In the original museum ledger the human remains are described as a ''skull with very flat head'' with a comment stating that the individual was ''probably Salish'' (in parenthesis in the original document). The morphology of the skull shows clear signs of induced physical modification that happened during the life of the individual. The practice of skull modification by strapping infants (with the exception of slaves and the very poor) to hard cradleboards was a custom common to many Southern Coast Salish people and documented in

the ethnographic literature. Descendants of the Southern Coast Salish speaking people of the Puget Sound area are members of the Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington; Nisqually Indian Tribe of the Nisqually Reservation, Washington; Port Gamble Indian Community of the Port Gamble Reservation, Washington; Puyallup Tribe of the Puyallup Reservation, Washington; Sauk-Suiattle Indian Tribe of Washington; Skokomish Indian Tribe of the Skokomish Reservation, Washington; Squaxin Island Tribe of the Squaxin Island Reservation, Washington; Stillaguamish Tribe of Washington; Suquamish Indian Tribe of the Port Madison Reservation; Swinomish Indians of the Swinomish Reservation, Washington; Tulalip Tribes of the Tulalip Reservation, Washington; and Upper Skagit Indian Tribe of Washington.

Officials of the Phoebe A. Hearst Museum of Anthropology have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of one individual of Native American ancestry. Officials of the Phoebe A. Hearst Museum of Anthropology also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington; Nisqually Indian Tribe of the Nisqually Reservation, Washington; Port Gamble Indian Community of the Port Gamble Reservation, Washington; Puyallup Tribe of the Puyallup Reservation, Washington; Sauk-Suiattle Indian Tribe of Washington; Skokomish Indian Tribe of the Skokomish Reservation, Washington; Squaxin Island Tribe of the Squaxin Island Reservation, Washington; Stillaguamish Tribe of Washington; Suquamish Indian Tribe of the Port Madison Reservation; Swinomish Indians of the Swinomish Reservation, Washington; Tulalip Tribes of the Tulalip Reservation, Washington; and Upper Skagit Indian Tribe of Washington.

Representatives of any other Indian Tribe that believes itself to be culturally affiliated with the human remains should contact Judd King, Interim Director of the Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA 94720, telephone (510) 642–3682, before June 1, 2009. Repatriation of the human remains to the Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington; Nisqually Indian Tribe of the Nisqually Reservation, Washington; Port Gamble Indian Community of the Port Gamble Reservation, Washington; Puyallup Tribe of the Puyallup Reservation, Washington; Sauk-Suiattle Indian Tribe of Washington; Skokomish Indian Tribe of the Skokomish Reservation, Washington; Squaxin Island Tribe of the Squaxin Island Reservation, Washington; Stillaguamish Tribe of Washington; Suquamish Indian Tribe of the Port Madison Reservation; Swinomish Indians of the Swinomish Reservation, Washington; Tulalip Tribes of the Tulalip Reservation, Washington; and/or Upper Skagit Indian Tribe of Washington may proceed after that date if no additional claimants come forward.

The Phoebe A. Hearst Museum of Anthropology is responsible for notifying the Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington; Nisqually Indian Tribe of the Nisqually Reservation, Washington; Port Gamble Indian Community of the Port Gamble Reservation, Washington; Puyallup Tribe of the Puyallup Reservation, Washington; Sauk-Suiattle Indian Tribe of Washington; Skokomish Indian Tribe of the Skokomish Reservation, Washington; Squaxin Island Tribe of the Squaxin Island Reservation, Washington; Stillaguamish Tribe of Washington; Suquamish Indian Tribe of the Port Madison Reservation; Swinomish Indians of the Swinomish Reservation, Washington; Tulalip Tribes of the Tulalip Reservation, Washington; and Upper Skagit Indian Tribe of Washington that this notice has been published.

Dated: April 1, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9–9984 Filed 4–29–09; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Native American Graves Protection and Repatriation Review Committee: Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix (1988), of a meeting of the Native American Graves Protection and Repatriation Review Committee (Review Committee). The Review Committee will meet on October 30–31, 2009, in Sarasota, Florida. On October 30, the meeting will take place at David Cohen Hall, located in the Beatrice Friedman Symphony Center, 709 North Tamiami Trail, Sarasota, FL 34236 (the Friedman Symphony Center is located on Van Wezel Way, a short street that runs between Boulevard of the Arts and 10th Street, one block west of Tamiami Trail). On October 31, the meeting will take place at the Hyatt Regency Sarasota, 1000 Boulevard of the Arts, Sarasota, FL 34236.

Meeting sessions will begin at 8:30 a.m. and end at 5:00 p.m. each day. A detailed agenda for this meeting will be posted on or before September 25, 2009, at *http://www.nps.gov/history/nagpra/*.

The agenda for the meeting will include a report on National NAGPRA Program activities during fiscal year 2009; activity reports from the National NAGPRA Program as requested by the Review Committee; requests for recommendations regarding the disposition of culturally unidentifiable human remains; requests, pursuant to 25 U.S.C. 3006(c)(3), for reviews and findings of fact related to the identity or cultural affiliation of human remains or other cultural items, or the return of such items; disputes among Indian tribes, Native Hawaiian organizations, or lineal descendants and Federal agencies or museums relating to the return of human remains or other cultural items, pursuant to 25 U.S.C. 3006(c)(4); presentations by Indian tribes, Native Hawaiian organizations, museums, Federal agencies, and the public; and the selection of dates and a site for the fall 2010 meeting.

The Review Committee will consider the following requests: by anyone, to make a presentation; by museums and Federal agencies, to act on an agreement concerning the disposition of human remains determined to be culturally unidentifiable (CUI); by Indian tribes, Native Hawaiian organizations, lineal descendants, museums, and Federal agencies, to review and make findings of fact related to the identity or cultural affiliation of human remains or other cultural items, or the return of such items; and by Indian tribes, Native Hawaiian organizations, lineal descendants, museums, and Federal agencies, to facilitate a dispute and make findings of fact and recommendations related to the identity, cultural affiliation, or the return of human remains or other cultural items.

Requests to make a presentation must include an abstract of the presentation and contact information for the presenter(s).

Requests to act on a CUI disposition agreement should be made on the form posted on the National NAGPRA Program website, and also should

include all the materials requested on the form. To access and download the form, go to www.nps.gov/history/nagpra; then click on ''Review Committee;'''' then click on ''Procedures;'' then, under ''Request by a Museum/Federal Agency for a CUI Disposition Agreement,'' click on the highlighted word ''form.''

Requests to convene parties and hear a dispute, or otherwise review and make findings of fact related to the identity or cultural affiliation of human remains or other cultural items, or the return of such items should include -

a. The proposed questions for the Review Committee to consider.

b. A statement of facts relevant for answering the questions posed.

c. Copies of documents that are relevant for answering the questions posed.

d. A statement of the requesting party's position and reasoning for their position.

e. A list of all interested parties known to the requesting party.

f. A summary of the consultation record.

g. The findings of fact and recommendations sought from the Review Committee.

In addition, requests to convene parties and hear a dispute should include -

h. A summary of previous efforts to resolve the dispute, including, if applicable, the results of alternative dispute resolution.

i. A statement providing the requesting party's understanding of the other party's/parties' position and reasoning for their position.

The Review Committee will consider a request to convene parties and hear a dispute, or otherwise review and make findings of fact related to the identity or cultural affiliation of human remains or other cultural items, or the return of such items if the request is received on or before June 29, 2009. The Review Committee will consider a request to act on a CUI disposition agreement if the request is received on or before July 29, 2009. The Review Committee will consider a request to make a presentation if the request is received on or before August 29, 2009. Electronic submissions are preferred, and are to be sent to: *David__Tarler@nps.gov*. Mailed submissions are to be sent to: Designated Federal Officer, NAGPRA Review Committee, National Park Service, National NAGPRA Program, 1201 Eye Street, NW, 8th Floor (2253), Washington, DC 20005.

The transcript of the October Review Committee meeting will be available, on request, approximately fourteen weeks after the meeting. For a transcript, contact the Designated Federal Officer, at David__Tarler@nps.gov. Information about NAGPRA, the Review Committee, and Review Committee meetings, and the minutes to the meetings are available at the National NAGPRA Program website, *http://www.nps.gov/history/nagpra/*. For the Review Committee's meeting procedures, click on ''Review Committee,'' then click on ''Procedures.''

The Review Committee was established in Section 8 of the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA), 25 U.S.C. 3006. Review Committee members are appointed by the Secretary of the Interior. The Review Committee is responsible for monitoring the NAGPRA inventory and identification process; reviewing and making findings related to the identity or cultural affiliation of cultural items, or the return of such items; facilitating the resolution of disputes; compiling an inventory of culturally unidentifiable human remains that are in the possession or control of each Federal agency and museum, and recommending specific actions for developing a process for disposition of such human remains; consulting with Indian tribes and Native Hawaiian organizations and museums on matters affecting such tribes or organizations lying within the scope of work of the Committee; consulting with the Secretary of the Interior on the development of regulations to carry out NAGPRA; and making recommendations regarding future care of repatriated cultural items. The Review Committee's work is carried out during the course of meetings that are open to the public.

Dated: April 24, 2009.

David Tarler,

Designated Federal Officer, Native American Graves Protection and Repatriation Review Committee.

[FR Doc. E9–9988 Filed 4–29–09; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAN00000.L18200000.ZX0000; 9–00160–ILM]

Notice of Public Meeting: Northwest California Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 (FLPMA), and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Northwest California Resource Advisory Council will meet as indicated below.

DATES: The meeting will be held Thursday and Friday, July 30 and 31, 2009, at the Bureau of Land Management Arcata Field Office, 1695 Heindon Rd., Arcata, California. On July 30, the council convenes at 10 a.m. and departs immediately for a tour of public lands managed by the BLM Arcata Field Office. On July 31, the meeting begins at 8 a.m. in the Arcata Field Office Conference Room. Time for public comment is set for 11 a.m.

FOR FURTHER INFORMATION CONTACT: Lynda Roush, BLM Arcata Field Office Manager, (707) 825–2309, or BLM Public Affairs Officer Joseph J. Fontana, (530) 252–5332.

SUPPLEMENTARY INFORMATION: The 12-member council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in Northwest California. At this meeting agenda topics include access alternatives for the South Cow Mountain Recreation Area near Ukiah, BLM image topics and updates from the BLM Arcata, Redding and Ukiah field offices. All meetings are open to the public. Members of the public may present written comments to the council. Each formal council meeting will have time allocated for public comments. Depending on the number of persons wishing to speak, and the time available, the time for individual comments may be limited. Members of the public are welcome on field tours, but they must provide their own transportation and lunch. Individuals who plan to attend and need special assistance, such as sign language interpretation and other reasonable accommodations, should contact the BLM as provided above.

Dated: April 22, 2009.

Joseph J. Fontana,

Public Affairs Officer.

[FR Doc. E9–9952 Filed 4–29–09; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Rate Adjustment for Indian Irrigation Project

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of proposed rate adjustment—San Carlos Irrigation Project—Joint Works, Arizona.

SUMMARY: The Bureau of Indian Affairs (BIA) owns and operates the San Carlos Irrigation Project—Joint Works (SCIP–JW) located with the project office in Coolidge, Arizona. We are required to establish irrigation assessment rates to recover the costs to administer, operate, maintain, and rehabilitate these projects. We request your comments on the proposed rate adjustment for this project for 2011. This proposed rate has been be published separately from the annual rate notice for all BIA's irrigation projects because of the BIA's implementation efforts related to the Arizona Water Settlements Act and this project.

DATES: Interested parties may submit comments on the proposed rate adjustment on or before June 1, 2009.

ADDRESSES: All comments on the proposed rate adjustment must be in writing and addressed to: John Anevski, Chief, Division of Irrigation, Power and Safety of Dams, Office of Trust Services, Mail Stop 4655–MIB, 1849 C Street, NW., Washington, DC 20240, Telephone (202) 208–5480.

FOR FURTHER INFORMATION CONTACT: Bryan Bowker, Project Manager, P.O. Box 250, Coolidge, AZ 85228, Telephone: (520) 723–6216.

SUPPLEMENTARY INFORMATION: The first table in this notice provides contact information for individuals who can give further information about the irrigation project covered by this notice. The second table provides the current 2009 and 2010 irrigation assessment rate and the proposed rate for the 2011 irrigation season.

What is the meaning of the key terms used in this notice?

In this notice:

Administrative costs means all costs we incur to administer the SCIP–JW at the local project level and is a cost factor included in calculating your O&M assessment. Costs incurred at the local project level do not normally include Agency, Region, or Central Office costs unless we state otherwise in writing.

Assessable acre means lands designated by us to be served by one of our irrigation projects, for which we collect assessments in order to recover costs for the provision of irrigation service. (See *total assessable acres.*)

BIA means the Bureau of Indian Affairs.

Bill means our statement to you of the assessment charges and/or fees you owe the United States for administration, operation, maintenance, and/or rehabilitation. The date we mail or hand-deliver your bill will be stated on it.

Costs means the costs we incur for administration, operation, maintenance, and rehabilitation to provide direct support or benefit to the SCIP–JW. (See administrative costs, operation costs, maintenance costs, and rehabilitation costs).

Customer means any person or entity to which we provide irrigation service.

Due date is the date on which your bill is due and payable. This date will be stated on your bill.

I, me, my, you, and *your* means all persons or entities that are affected by this notice.

Irrigation project means the SCIP–JW or portion thereof for the delivery, diversion, and storage of irrigation water that we own or have an interest in, including all appurtenant works. The term ''irrigation project'' is used interchangeably with irrigation facility, irrigation system, and irrigation area.

Irrigation service means the full range of services we provide customers of the SCIP–JW. This includes our activities to administer, operate, maintain, and rehabilitate this project in order to deliver water.

Maintenance costs means costs we incur to maintain and repair our irrigation projects and associated equipment and is a cost factor included in calculating your operation and maintenance (O&M) assessment.

Operation and maintenance (O&M) assessment means the periodic charge you must pay us to reimburse costs of administering, operating, maintaining, and rehabilitating the SCIP–JW consistent with this notice and our supporting policies, manuals, and handbooks.

Operation or operating costs means costs we incur to operate the SCIP–JW and equipment and is a cost factor included in calculating your O&M assessment.

Past due bill means a bill that has not been paid by the close of business on the 30th day after the due date as stated on the bill. Beginning on the 31st day after the due date, we begin assessing additional charges accruing from the due date.

Rehabilitation costs means costs we incur to restore the SCIP–JW or its features to original operating condition or to the nearest state which can be achieved using current technology and is a cost factor included in calculating your O&M assessment.

Responsible party means an individual or entity that owns or leases land within the assessable acreage of the SCIP–JW and is responsible for providing accurate information to our billing office and paying a bill for an annual irrigation rate assessment.

Total assessable acres means the total acres served by the SCIP–JW.

Water delivery is an activity that is part of the irrigation service we provide our customers when water is available.

We, us, and *our* means the United States Government, the Secretary of the Interior, the BIA, and all who are authorized to represent us in matters covered under this notice.

Does this notice affect me?

This notice affects you if you own or lease land within the assessable acreage the SCIP–JW or if you have a carriage agreement with this irrigation project.

Where can I get information on the regulatory and legal citations in this notice?

You can contact the appropriate office(s) stated in the tables for the SCIP–JW, or you can use the Internet site for the Government Printing Office at *http://www.gpo.gov.*

Why are you publishing this notice?

We are publishing this notice to notify you that we propose to adjust our irrigation assessment rate. This notice is published in accordance with the BIA's regulations governing its operation and maintenance of irrigation projects, found at 25 CFR Part 171. This regulation provides for the establishment and publication of the 2011 rate for annual irrigation assessments as well as related information about the SCIP–JW.

What authorizes you to issue this notice?

Our authority to issue this notice is vested in the Secretary of the Interior by 5 U.S.C. 301 and the Act of August 14, 1914 (38 Stat. 583; 25 U.S.C. 385). The Secretary has in turn delegated this authority to the Assistant Secretary—Indian Affairs under Part 209, Chapter 8.1A, of the Department of the Interior's Departmental Manual.

When will you put the rate adjustments into effect?

We will put the rate adjustment into effect for the 2011 irrigation season and subsequent years where applicable.

How do you calculate irrigation rates?

We calculate annual irrigation assessment rates in accordance with 25 CFR Part 171.500 by estimating the annual costs of operation and maintenance at each of our irrigation projects and then dividing by the total assessable acres for that particular irrigation project. The result of this calculation for the SCIP–JW is stated in the rate table in this notice.

What kinds of expenses do you consider in determining the estimated annual costs of operation and maintenance?

Consistent with 25 CFR Part 171.500, these expenses include the following:

(a) Salary and benefits for the project engineer/manager and project employees under the project engineer/manager's management or control;

(b) Materials and supplies;

(c) Vehicle and equipment repairs;

(d) Equipment costs, including lease fees;

(e) Depreciation;

(f) Acquisition costs;

(g) Maintenance of a reserve fund available for contingencies or emergency costs needed for the reliable operation of the irrigation facility infrastructure;

(h) Maintenance of a vehicle and heavy equipment replacement fund;

(i) Systematic rehabilitation and replacement of project facilities;

(j) Contingencies for unknown costs and omitted budget items; and

(k) Other expenses we determine necessary to properly perform the activities and functions characteristic of an irrigation project.

When should I pay my irrigation assessment?

We will mail or hand-deliver your bill notifying you of: (a) The amount you owe to the United States, and (b) when such amount is due. If we mail your bill, we will consider it as being delivered no later than 5 business days after the day we mail it. You should pay your bill by the due date stated on the bill.

What information must I provide for billing purposes?

All responsible parties are required to provide the following information to the billing office associated with the SCIP–JW:

(1) The full legal name of person or entity responsible for paying the bill;

(2) An adequate and correct address for mailing or hand delivering our bill; and

(3) The taxpayer identification number or social security number of the person or entity responsible for paying the bill.

Why are you collecting my taxpayer identification number or social security number?

Public Law 104–134, the Debt Collection Improvement Act of 1996, requires that we collect the taxpayer identification number or social security number before billing a responsible party and as a condition to servicing the account.

What happens if I am a responsible party but I fail to furnish the information required to the billing office responsible for the SCIP–JW?

If you are late paying your bill because of your failure to furnish the required information listed above, you will be assessed interest and penalties as provided below, and your failure to provide the required information will not provide grounds for you to appeal your bill or any penalties assessed.

What can happen if I do not provide the information required for billing purposes?

We can refuse to provide you irrigation service.

If I allow my bill to become past due, could this affect my water delivery?

If we do not receive your payment before the close of business on the 30th day after the due date stated on your bill, we will send you a past due notice. This past due notice will have additional information concerning your rights. We will consider your past due notice as delivered no later than 5 business days after the day we mail it. We have the right to refuse water delivery to any irrigated land for which the bill is past due. We can continue to refuse water delivery until you pay your bill or make payment arrangements to which we agree. We follow the procedures provided in 31 CFR 901.2, ''Demand for Payment,'' when demanding payment of your past due bill.

Are there any additional charges if I am late paying my bill?

Yes. We will assess you interest on the amount owed, using the rate of interest established annually by the Secretary of the United States Treasury (Treasury) to calculate what you will be assessed (31 CFR 901.9(b)). You will not be assessed this charge until your bill is past due. However, if you allow your bill to become past due, interest will accrue from the original due date, not the past due date. Also, you will be charged an administrative fee of $12.50 for each time we try to collect your past due bill. If your bill becomes more than 90 days past due, you will be assessed a penalty charge of six percent (6%) per year, which will accrue from the date your bill initially became past due. As a Federal agency, we are required to charge interest, penalties, and administrative costs on debts owed to us pursuant to 31 U.S.C. 3717 and 31 CFR 901.9, ''Interest, penalties, and administrative costs.''

What else will happen to my past due bill?

If you do not pay your bill or make payment arrangements to which we agree, we are required to send your past due bill to the Treasury for further action. Under the provisions of 31 CFR 901.1, ''Aggressive agency collection activity,'' we must send any unpaid annual irrigation assessment bill to Treasury no later than 180 days after the original due date of the bill.

Who can I contact for further information?

The following table contains the regional and project/agency contacts for the SCIP–JW.

WESTERN REGION CONTACTS

Allen Anspach, Regional Director
Bureau of Indian Affairs, Western Regional Office
Two Arizona Center
400 N. 5th Street, 12th floor
Phoenix, Arizona 85004
Telephone: (602) 379–6600

Project name	Project/agency contacts
San Carlos Irrigation Project Joint Works	Bryan Bowker, Project Manager, P.O. Box 250, Coolidge, AZ 85228, Telephone: (520) 723–6216.

What irrigation assessment or charge is proposed for adjustment by this notice?

The rate table below contains the current rate for SCIP–JW where we recover costs of administering, operating, maintaining, and rehabilitating them. The table also contains the proposed rate for the 2011 season.

WESTERN REGION RATE TABLE

Project name	Rate category	Final 2009 rate	Final 2010 rate	Proposed 2011 rate
San Carlos Irrigation Project (Joint Works) (See Note #1)	Basic per acre	$21.00	$21.00	$30.00

Note #1—The 2010 rate was established by final notice published in the **Federal Register** on April 22, 2009 (Vol. 74, No. 76, page 18402).

Consultation and Coordination With Tribal Governments (Executive Order 13175)

To fulfill its consultation responsibility to tribes and tribal organizations, BIA communicates, coordinates, and consults on a continuing basis with these entities on issues of water delivery, water availability, and costs of administration, operation, maintenance, and rehabilitation of projects that concern them. This is accomplished at the individual irrigation project by Project, Agency, and Regional representatives, as appropriate, in accordance with local protocol and procedures. This notice is one component of our overall coordination and consultation process to provide notice to, and request comments from, these entities when we adjust irrigation assessment rates.

Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (Executive Order 13211)

This rate adjustment will have no adverse effects on energy supply, distribution, or use (including a shortfall in supply, price increases, and increased use of foreign supplies) should the proposed rate adjustment be implemented. This is a notice for rate adjustment at a BIA-owned and operated irrigation project.

Regulatory Planning and Review (Executive Order 12866)

This rate adjustment is not a significant regulatory action and does not need to be reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

This rate adjustment is not a rule for the purposes of the Regulatory Flexibility Act because it establishes ''a rule of particular applicability relating to rates.'' 5 U.S.C. 601(2).

Unfunded Mandates Reform Act of 1995

This rate adjustment does not impose an unfunded mandate on State, local, or tribal governments in the aggregate, or on the private sector, of more than $130 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. Therefore, the Department is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

Takings (Executive Order 12630)

The Department has determined that rate adjustments do not have significant ''takings'' implications. This rate adjustment does not deprive the public, State, or local governments of rights or property.

Federalism (Executive Order 13132)

The Department has determined that rate adjustments do not have significant Federalism effects because they will not affect the States, the relationship between the national government and the States, or the distribution of power and responsibilities among various levels of government.

Civil Justice Reform (Executive Order 12988)

In issuing this rule, the Department has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988.

Paperwork Reduction Act of 1995

This rate adjustment does not affect the collections of information which have been approved by the Office of Information and Regulatory Affairs, Office of Management and Budget, under the Paperwork Reduction Act of 1995. The OMB Control Number is 1076–0141 and expires August 31, 2009.

National Environmental Policy Act

The Department has determined that this rate adjustment does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370(d)).

Data Quality Act

In developing this notice, we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. No. 106–554).

Dated: April 27, 2009.

George T. Skibine,

Deputy Assistant Secretary for Policy and Economic Development, Office of the Assistant Secretary—Indian Affairs.

[FR Doc. E9–10038 Filed 4–29–09; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF JUSTICE

Notice of Public Comment Period for Proposed Consent Decree Under the Clean Air Act

Under 28 CFR 50.7, notice is hereby given that, for a period of 30 days, the United States will receive public comments on a proposed Consent Decree in *United States* v. *Miller, Dyer & Co., L.LC., Chicago Energy Associates, and Whiting Oil and Gas Corp.,* (civ. no. 2:09–cv–00332–DAK), which was lodged with the United States District Court for Utah on April 17, 2009.

This proposed Consent Decree was lodged simultaneously with the Complaint in this matter pursuant to Section 112 of the Clean Air Act, 42 U.S.C. 7412, to resolve alleged violations at the defendants' compressor stations on Indian Lands, in the Uinta Basin, Utah. Under the settlement, the defendants will install air pollution controls on all existing and newly constructed compressor stations in the Uinta Basin. In addition, the defendants will pay a civil penalty of $142,000 under the Decree.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Miller, Dyer & Co., L.LC., Chicago Energy Associates, and Whiting Oil and Gas Corp.,* D.J. Ref. 90–5–2–1–09383.

During the public comment period, the Decree may be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $23.00 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E9–9918 Filed 4–29–09; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Public Comment Period for Proposed Consent Decree Under the Clean Air Act

Under 28 CFR 50.7, notice is hereby given that, for a period of 30 days, the United States will receive public comments on a proposed Consent Decree in *United States* v. *Wind River Resources Corp., & Bill Barrett Corp.,* (civ. no. 2:09–cv–00330–PMW), which was lodged with the United States District Court for the district of Utah on April 17, 2009. This proposed Consent Decree was lodged simultaneously with the Complaint in this matter. The Complaint alleges that the Companies installed major emitting sources of volatile organic compounds (''VOCs''), and hazardous air pollutants (''HAPs''), but failed to comply with the Prevention of Significant Deterioration (''PSD'') requirements set forth at 42 U.S.C. 7470–7492, and the National Emission Standards for Hazardous Air Pollutants (''NESHAP''), Section 112 of the CAA, 42 U.S.C. 7412, at the defendants' compressor stations on Indian Lands, in the Uinta Basin, Utah. Under the settlement, the defendants will install air pollution controls on all existing and newly constructed compressor stations in the Uinta Basin. In addition, the defendants will pay civil penalties in the amount of $240,000, and perform Supplemental Environmental Projects valued at $200,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Wind River Resources Corp., & Bill Barrett Corp.,* D.J. Ref. 90–5–2–1–09048.

During the public comment period, the Decree may be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $33.50 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E9–9920 Filed 4–29–09; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Public Comment Period for Proposed Consent Decree Under the Clean Air Act

Under 28 CFR 50.7, notice is hereby given that, for a period of 30 days, the United States will receive public comments on a proposed Consent Decree in *United States* v. *Dominion Exploration & Production, INC., and XTO Energy,* (civ. no. 2:09–cv–00331–SA), which was lodged with the United States District Court for the district of Utah on April 17, 2009. This proposed Consent Decree was lodged simultaneously with the Complaint in this matter pursuant to Section 112 of the Clean Air Act, 42 U.S.C. 7412, to resolve alleged violations at the defendants' compressor stations on Indian Lands, in the Uinta Basin, Utah. Under the settlement, the defendants will install air pollution controls on all existing and newly constructed compressor stations in the Uinta Basin. In addition, the defendants will pay a civil penalty of $250,000 under the Decree.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Decree.

Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Dominion Exploration & Production, INC., and XTO Energy,* D.J. Ref. 90–5–2–1–09196.

During the public comment period, the Decree may be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $24.50 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E9–9919 Filed 4–29–09; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–NEW]

Agency Information Collection Activities: Proposed Collection; Comments Requested: Correction: Emergency 60-Day Notice of Information Collection Under Review: Certification of Qualifying State Relief From Disabilities Program

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), has submitted 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 June 29, 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 Barbara Terrell, Firearms Enforcement Branch, 99 New York Avenue, NE., Washington, DC 20226.

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:* New.

(2) *Title of the Form/Collection:* Certification of Qualifying State Relief from Disabilities Program.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* ATF F 3210.12. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State, Local or Tribal Government. Other: None. The purpose of the information is to determine whether a State has certified, to the satisfaction of the Attorney General, that it has established a relief from disabilities program in accordance with the requirements of the National Instant Check System Improvement Act of 2007.

(5) *An estimate of the total number of respondents and the amount of time estimate for an average respondent to respond:* It is estimated that 50 respondents will complete a 15 minute form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 13 annual total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: *April 27, 2009.*

Lynn Bryant,

Department Clearance Officer, PRA Department of Justice.

[FR Doc. E9–9978 Filed 4–29–09; 8:45 am]

BILLING CODE 4410–FY;P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Emergency Review: Comment Request

April 24, 2009.

The Department of Labor has submitted the following information collection request (ICR), utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35) and 5 CFR 1320.13. OMB approval has been requested by May 20, 2009. A copy of this ICR, with applicable supporting documentation; including, among other things, a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Darrin King on 202–693–4129 (this is not a toll-free number)/e-mail: *DOL_PRA_PUBLIC@dol.gov.* Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor—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.* Comments and questions about the ICR listed below should be received by no later than the requested OMB approval date. An additional opportunity to comment on this ICR will also be provided when DOL seeks approval

under standard PRA clearance procedures.

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarify of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

AGENCY: Employment and Training Administration.

Title of Collection: Collecting Aggregate Participant Counts for Workforce Investment Act (WIA) Title IB, Wagner-Peyser Act, National Emergency Grants, and Reemployment Services Grants.

OMB Control Number: Pending.

Frequency of Collection: Monthly collection.

Affected Public: State Workforce Agencies.

Total Estimated Number of Respondents: 54.

Total Estimated Annual Burden Hours: 41,472 hours for monthly reports and 573,160 hours for quarterly WIASRD reports.

Description: The American Recovery and Reinvestment Act of 2009 (The Recovery Act) was signed into law by President Obama on February 17, 2009. To record the impact of the Recovery Act resources, more current information on participants and the services received is essential. Therefore, to obtain a more robust look at participants and services provided with the additional Recovery Act resources, the Employment and Training Administration (ETA) proposes supplemental reports. Under these new supplemental reports, States are required to submit information that States already collect; however, the supplemental reports are required to be submitted monthly.

• *For WIA Adult,* States will report aggregate counts of *all* participants, including those whose services are funded with regular WIA Adult formula funds and Recovery Act funds. States will report aggregate counts on those participants who are low-income, those receiving Temporary Assistance to Needy Families and other public assistance, the number of UI claimants, Veterans, and individuals with disabilities, numbers in training and type of training, and numbers receiving supportive services.

• *For WIA Dislocated Workers,* States will report aggregate counts of *all* participants, including those whose services are funded with regular WIA Dislocated Worker formula funds and Recovery Act funds. States will report the number of UI claimants, Veterans, and individuals with disabilities, numbers in training and type of training, and numbers receiving supportive services.

• *For National Emergency Grants, financed with Recovery Act Funds Only,* States will report aggregate counts of participants, including the number of UI claimants, Veterans, and individuals with disabilities, numbers in training and type of training, and numbers receiving supportive services.

• *For WIA Youth, served with Recovery Act Funds Only,* reporting will be slightly different. States will report aggregate counts of all Recovery Act youth participants, including the characteristics of participants, the numbers of participants in summer employment, services received, attainment of a work readiness skill, which is required in the Recovery Act, and completion of summer youth employment. States will also continue to submit the regular WIA quarterly and annual reports, including any youth who continue services under the WIA year-round youth program.

• *For the Wagner-Peyser Act Employment Service,* States will report on the number of participants served, number of Unemployment Insurance (UI) claimants served, and the type of services received. States will be required to submit supplemental reports of aggregate counts of all participants whose services are financed with regular Wagner-Peyser Act formula funds and Recovery Act funds (*i.e.,* Employment Service and Reemployment Services).

• *For the Wagner-Peyser Reemployment Services Grants,* States will report on the same data elements that are collected for the Wagner-Peyser Act Employment Service report, with one additional data element: *referral to training, including WIA-funded training.*

In addition to these aggregate monthly reports, ETA proposes that States submit the WIA individual records (WIASRD) on *all* participants in the WIA title 1B programs, and in National Emergency Grants, on a quarterly basis, beginning with the 3rd quarter of Program Year 2009, which ends on March 31, 2010. The first deadline for the required quarterly submission will be May 15, 2010. This start date gives States sufficient time to adjust their management information systems.

Why are we requesting Emergency Processing? The supplemental reports and quarterly collection of WIA individual records allows ETA to overcome the limitations imposed by current outcome based performance reporting requirements. This collection comprises a participant and performance reporting strategy that will provide a more robust, ''real time'' view of the impact of the Recovery Act funds, providing greater information on levels of program participation, and provide more information about the characteristics of the participants served, and the types of services provided. The approval of this request is necessary to allow ETA to report performance accountability information immediately on the effective use of Recovery Act funds already received by State workforce agencies. With these monthly reports more detailed information on individuals will be available while they are participating in the programs. There is also significant value added by obtaining quarterly individual records from State workforce agencies. First, quarterly submissions provide more timely information to respond to the oversight needs of Governors, Congress and other Federal/State stakeholders and the general public. Second, ETA will benefit from more timely analysis and States will have access to more regular updates on nationwide participation information as well as employment and training trends.

Darrin A. King,

Departmental Clearance Officer.

[FR Doc. E9–9872 Filed 4–29–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Underground Retorts

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a pre-clearance consultation program to provide the general public

and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the extension of the information collection related to the 30 CFR Section 57.22401; Underground Retorts.

DATES: Submit comments on or before June 29, 2009.

ADDRESSES: Send comments to, Debbie Ferraro, Management Services Division, 1100 Wilson Boulevard, Room 2141, Arlington, VA 22209–3939. Commenters are encouraged to send their comments on computer disk, or via e-mail to *Ferraro.Debbie@DOL.GOV.* Ms. Ferraro can be reached at (202) 693–9821 (voice), or (202) 693–9801 (facsimile). Because of potential delays in receipt and processing of mail, respondents are strongly encouraged to submit comments electronically to ensure timely receipt. We cannot guarantee that comments mailed will be received before the comment closing date.

FOR FURTHER INFORMATION CONTACT: Contact the employee listed in the **ADDRESSES** section of this notice.

SUPPLEMENTARY INFORMATION:

I. Background

This regulation pertains to the safety requirements to be followed by the mine operators in the use of underground retorts to extract oil from shale by heat or fire. Prior to ignition of retorts, the mine operator must submit a written plan indicating the acceptable levels of combustible gases and oxygen; specifications and location of off-gas monitoring procedures and equipment; procedures for ignition of retorts and details of area monitoring and alarm systems for hazardous gases and actions to be taken to assure safety of miners.

II. Desired Focus of Comments

MSHA is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the employee listed in the **ADDRESSES** section of this notice, or viewed on the Internet by accessing the MSHA home page (*http://www.msha.gov/*) and selecting ''Rules & Regs'', and then selecting ''FedReg. Docs''. On the next screen, select ''Paperwork Reduction Act Supporting Statement'' to view documents supporting the **Federal Register** Notice.

III. Current Actions

This request for information contains provisions whereby mine operators can maintain compliance with the regulations and assure the safety of miners where underground retorts are used.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Underground Retorts.

OMB Number: 1219–0096.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Respondents: 1.

Total Burden Hours: 160 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated at Arlington, Virginia, this 24th day of April 2009.

John Rowlett,

Director of Management Services Division.

[FR Doc. E9–9945 Filed 4–29–09; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Ground Control Plan

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

DATES: Submit comments on or before June 29, 2009.

ADDRESSES: Send comments to, Debbie Ferraro, Management Services Division, 1100 Wilson Boulevard, Room 2141, Arlington, VA 22209–3939. Commenters are encouraged to send their comments on computer disk, or via E-mail to *Ferraro.Debbie@DOL.GOV.* Ms. Ferraro can be reached at (202) 693–9821 (voice), or (202) 693–9801 (facsimile). Because of potential delays in receipt and processing of mail, respondents are strongly encouraged to submit comments electronically to ensure timely receipt. We cannot guarantee that comments mailed will be received before the comment closing date.

FOR FURTHER INFORMATION CONTACT: The employee listed in the **ADDRESSES** section of this notice.

SUPPLEMENTARY INFORMATION:

I. Background

Each operator of a surface coal mine is required under 30 CFR 77.1000 to establish and follow a ground control plan that is consistent with prudent engineering design and which will ensure safe working conditions. The plans are based on the type of strata expected to be encountered, the height and angle of highwalls and spoil banks, and the equipment to be used at the mine. Ground control plans are required by 30 CFR 77.1000–1 to be filed with the MSHA district Manager in the district in which the mine is located. The plans are reviewed by MSHA to

ensure that highwalls, pits, and spoil banks are maintained in safe condition through the use of sound engineering design.

II. Desired Focus of Comments

MSHA is particularly interested in comments that:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the employee listed in the For Further Information Contact section of this notice, or viewed on the internet by accessing the MSHA home page (*http://www.msha.gov/*) and selecting ''Rules & Regs'', and then selecting ''FedReg. Docs''. On the next screen, select ''Paperwork Reduction Act Supporting Statement'' to view documents supporting the **Federal Register** Notice.

III. Current Actions

MSHA is seeking to continue the requirement for mine operators to submit ground control plans to ensure that highwalls, pits, and spoil banks are maintained in safe condition so that a safe working environment is provided for miners.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Ground Control Plan.

OMB Number: 1219–0026.

Recordkeeping: § 77.1000–1 states that the operator shall file a copy of the ground control plan and revisions with the Coal Mine Health and Safety District or Subdistrict office for the District or Subdistrict in which the mine is located and shall identify the name and location of the mine; the Mine Safety and Health Administration identification number if known; and the name and address of the mine operator.

Frequency: On Occasion.

Affected Public: Business or other for-profit.

Respondents: 925.

Reponses: 327.

Total Burden Hours: 2,841 hours.

Total Burden Cost (operating/maintaining): $520.

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 at Arlington, Virginia, this 24th day of April 2009.

John Rowlett,

Director of Management Services Division.

[FR Doc. E9–9944 Filed 4–29–09; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Mine Operator Dust Cards

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(c)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the extension of the information collection related to the 30 CFR Sections 70.209, 71.209, and 90.209—Mine Operator Dust Data Card; 70.201(c), 71.201(c), 90.201(c)—Reporting Operator Sampling Dates; 70.202(b), 71.202(b), and 90.202(b)—Dust Sampling Certification; 70.220(a), 71.220(a), and 90.220(a)—Reporting Status Changes; and 71.300, 71.301(d), 90.300, and 90.301(d)—Respirable Dust Control Plan.

DATES: Submit comments on or before June 29, 2009.

ADDRESSES: Send comments to, Debbie Ferraro, Management Services Division, 1100 Wilson Boulevard, Room 2141, Arlington, VA 22209–3939. Commenters are encouraged to send their comments on computer disk, or via e-mail to *Ferraro.Debbie@DOL.GOV.* Ms. Ferraro can be reached at (202) 693–9821 (voice), or (202) 693–9801 (facsimile). Because of potential delays in receipt and processing of mail, respondents are strongly encouraged to submit comments electronically to ensure timely receipt. We cannot guarantee that comments mailed will be received before the comment closing date.

FOR FURTHER INFORMATION CONTACT: Contact the employee listed in the **ADDRESSES** section of this notice.

SUPPLEMENTARY INFORMATION:

I. Background

30 CFR 70.201(c), 71.201(c), and 90.201(c), authorize the District Manager to require the mine operator to submit the dates(s) when sampling will begin. Only a certified person is allowed to conduct the respirable dust sampling required by these parts.

§§ 70.202(b), 71.202(b), and 90.202(b), require that the person must pass the MSHA examination on sampling of respirable coal mine dust.

§§ 70.220(a), 71.220(a), and 90.220(a), require the operator to report status changes to MSHA in writing within 3 working days after the status change has occurred.

§§ 70.209, 71.209, and 90.209, require persons who are certified by MSHA to take respirable dust samples to complete the dust data card that accompanies each sample being submitted for analysis.

§§ 71.300 and 90.300 require a coal mine operator to submit to MSHA for approval a written respirable dust control plan within 15 calendar days after the termination date of a citation for violation of the applicable dust standard.

§ 71.301(d) requires the respirable dust control plan to be posted on the mine bulletin board, however, 90.301(d) prohibits posting of the dust control plan for P–90 miners and, instead, requires a copy be provided to the affected P–90 miner.

II. Desired Focus of Comments

MSHA is particularly interested in comments that:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the employee listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice, or viewed on the Internet by accessing the MSHA home page (*http://www.msha.gov/*) and selecting ''Rules & Regs'', and then selecting ''FedReg. Docs''. On the next screen, select ''Paperwork Reduction Act Supporting Statement'' to view documents supporting the **Federal Register** Notice.

III. Current Actions

The information provided by the mine operator on the dust data card that accompanies each dust sample, the reporting of when such samples will be collected to allow MSHA to observe the actual collection, and the reporting of any changes in operation status affecting sampling, are vital to effectively administer the operator sampling program. This allows MSHA to determine not only whether mine operators have complied with the sampling requirements stipulated in the regulations but also which operators were in noncompliance with the applicable dust standard. After processing, results are reported back to mine operators for posting on the mine bulletin board and viewing by miners. MSHA also uses this information to plan enforcement activities and evaluate programs.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Mine Operator Dust Cards.

OMB Number: 1219–0011.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Respondents: 830.

Responses: 41,000.

Burden Hours: 33,199.

Total Burden Cost: $2,989,000.

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 at Arlington, Virginia, this 24th day of April 2009.

John Rowlett,

Director of Management Services Division.

[FR Doc. E9–9943 Filed 4–29–09; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,760]

Delphi Corporation Electronics and Safety Division Including On-Site Leased Workers From Acro Service Corporation, Manpower and Manpower Professional, Kokomo, IN; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on February 14, 2008, applicable to workers of Delphi Corporation, Electronics and Safety Division, Kokomo, Indiana. The notice was published in the **Federal Register** on February 29, 2008 (73 FR 11152). The certification was amended on October 16, 2008 to include on-site leased workers from Acro Service Corporation. The notice was published in the **Federal Register** on October 27, 2008 (73 FR 63733).

At the request of the petitioner, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of various types of automobile components, including: Heating, ventilating, air-conditioning systems (HVAC), amplifiers, mainboards, gas control modules, hybrid airmeter electronics, hybrid ignition electronics, pressure sensors, transmission control modules, crash sensing devices, occupant sensing devices, warning systems and semiconductors.

New information shows that leased workers of Manpower and Manpower Professional were employed on-site at the Kokomo, Indiana location of Delphi Corporation, Electronics and Safety Division. The Department has determined that these workers are sufficiently under the control of Delphi Corporation, Electronics and Safety Division.

Based on these findings, the Department is amending this certification to include leased workers of Manpower and Manpower Professional working on-site at the Kokomo, Indiana location of the subject firm.

The intent of the Department's certification is to include all workers employed at Delphi Corporation, Electronics and Safety Division who were adversely affected by a shift in production in Mexico.

The amended notice applicable to TA–W–62,760 is hereby issued as follows:

All workers of Delphi Corporation, Electronics and Safety Division, including on-site leased workers from Acro Service Corporation, Manpower and Manpower Professional, Kokomo, Indiana, who became totally or partially separated from employment on or after January 28, 2007, through February 14, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 14th day of April 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–9936 Filed 4–29–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,229B; TA–W–64,229C]

Hanesbrands, Inc. Formely Known as Sara Lee Branded Apparel Including On-Site Leased Workers From Diversco Integrated Services and Kelly Services, Inc., Gastonia, NC; Hanesbrands, Inc. Formely Known as Sara Lee Branded Apparel Including On-Site Leased Workers From Diversco Integrated Services and Kelly Services, Inc., Rockingham, NC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and

Alternative Trade Adjustment Assistance on February 27, 2008, applicable to workers of Hanesbrands, Inc., Gastonia, North Carolina (TA–W–64,229B), and Hanesbrands, Inc., Rockingham, North Carolina (TA–W–64,229C), including on-site workers of Diversified Services. The notice was published in the **Federal Register** on December 10, 2008 (73 FR 75137).

At the request of the company official, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of yarn, fabric (spun and knitted) and hosiery for apparel.

New information shows that leased workers from Kelly Services, Inc., were employed on-site at Hanesbrands, Inc., Gastonia, North Carolina (TA–W–64,229B), and Hanesbrands, Inc., Rockingham, North Carolina (TA–W–64,229C). The Department has determined that these workers were sufficiently under the control of the subject firm.

Based on these findings, the Department is amending this certification to include leased workers from Kelly Services, Inc. working on-site and sufficiently under the control of Hanesbrands, Inc., Gastonia, North Carolina (TA–W–64,229B), and Hanesbrands, Inc., Rockingham, North Carolina (TA–W–64,229C).

The intent of the Department's certification is to include all workers employed at Hanesbrands, Inc., Gastonia, North Carolina (TA–W–64,229B), and Hanesbrands, Inc., Rockingham, North Carolina (TA–W–64,229C) who were adversely affected by a shift in production of yarn, fabric (spun and knitted) and hosiery for apparel to Dominican Republic and El Salvador.

The amended notice applicable to TA–W–64,229 is hereby issued as follows:

All workers of Hanesbrands, Inc., Gastonia, North Carolina (TA–W–64,229B), and Hanesbrands, Inc., Rockingham, North Carolina (TA–W–64,229C), including on-site leased workers from Diversified Services and Kelly Services, Inc., who became totally or partially separated from employment on or after October 5, 2007, through November 25, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC this 15th day of April 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–9931 Filed 4–29–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than May 11, 2009.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than May 11, 2009.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 23rd day of April 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

APPENDIX

[TAA petitions instituted between 4/13/09 and 4/17/09]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
65786	Lexis Nexis (Comp)	Miamisburg, OH	04/13/09	04/09/09
65787	Stand by Screw Machine, Inc. (Wkrs)	Berea, OH	04/13/09	04/03/09
65788	Schlumburger (Wkrs)	Casper, WY	04/13/09	04/03/09
65789	Bracalente Manufacturing Group (Wkrs)	Trambaursville, PA	04/14/09	04/07/09
65790	AIT (formerly Integrated Flow Systems) (Wkrs)	Pflugerville, TX	04/14/09	04/13/09
65791	Commercial Vehicle Group/Trim Systems (Comp)	Dublin, VA	04/14/09	04/02/09
65792	Almatis, Inc. (USW)	Benton, AR	04/14/09	03/17/09
65793	Home Fashion International (Wkrs)	Taylorsville, NC	04/14/09	04/01/09
65794	Leggett and Platt, Inc. (Comp)	Whittier, CA	04/14/09	04/13/09
65795	Caye Upholestry (Wkrs)	Amory, MS	04/15/09	04/14/09
65796	B. A. Ballou and Co., Inc. (Wkrs)	East Providence, RI	04/15/09	04/03/09
65797	ABB, Inc. (Wkrs)	Wichita Falls, TX	04/15/09	04/13/09
65798	The Toolroom, Inc. (Comp)	Owensville, MO	04/15/09	04/14/09
65799	Lance Transport, Inc. (Wkrs)	Hildebran, NC	04/15/09	04/14/09
65800	Bernhardt Main Office (Wkrs)	Lenoir, NC	04/15/09	03/31/09
65801	Georgia-Pacific (Comp)	Philomath, OR	04/15/09	04/07/09
65802	UGN, Inc. (Wkrs)	Jackson, TN	04/15/09	03/20/09
65803	Technicolor Video Cassette Services (Wkrs)	Livonia, MI	04/16/09	04/06/09
65804	Gerber Legendary Blades (Comp)	Portland, OR	04/16/09	04/15/09
65805	Weyerhaeuser Company/Pine Hill Veneer/Lumber (Comp)	Pine Hill, AL	04/16/09	04/14/09
65806	ILevel by Weyerhaeuser—Castleberry (Comp)	Castleberry, AL	04/16/09	04/14/09

APPENDIX—Continued

[TAA petitions instituted between 4/13/09 and 4/17/09]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
65807	Leech Industries, Inc. (Comp)	Meadville, PA	04/16/09	04/10/09
65808	Qimonda North America (Comp)	Sandston, VA	04/16/09	04/15/09
65809	Vishay Roederstein (Comp)	Statesville, NC	04/16/09	04/15/09
65810	Ross Mould, Inc. (USW)	Washington, PA	04/17/09	04/13/09
65811	Advanced Industrial Machinery, Inc. (Comp)	Hickory, NC	04/17/09	04/14/09
65812	Weyerhaeuser Company/Dodson Veneer (State)	Dodson, LA	04/17/09	04/15/09
65813	Cymer Corporation (Wkrs)	San Diego, CA	04/17/09	04/15/09
65814	Sperian Protective Gloves, USA (Comp)	Buffalo, NY	04/17/09	04/07/09
65815	Councill Company, LLC (Comp)	Denton, NC	04/17/09	04/15/09

[FR Doc. E9–9940 Filed 4–29–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than May 11, 2009.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than May 11, 2009.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 21st day of April 2009.

Linda G. Poole

Certifying Officer, Division of Trade Adjustment Assistance.

APPENDIX

[TAA petitions instituted between 4/6/09 and 4/10/09]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
65749	Warvel Products, Inc. (Comp)	Linwood, NC	04/06/09	04/03/09
65750	Chick Machine Company, Inc. (Comp)	Butter, PA	04/06/09	04/03/09
65751	Allegheny Ludlum—Brackenridge Works (USW)	Brackenridge, PA	04/06/09	03/11/09
65752	Bridgestone APM Plant 1 (Wkrs)	Findlay, OH	04/06/09	03/30/09
65753	Weyerheauser Company (IAMAW)	Warrenton, OR	04/06/09	03/16/09
65754	Chromalox Precision (Wkrs)	Pittsburgh, PA	04/06/09	04/02/09
65755	Property Insight (Wkrs)	Towson, MD	04/06/09	04/03/09
65756	iLevel by Weyerhaeuser (State)	Colbert, GA	04/06/09	04/03/09
65757	Corning, Inc./Blacksburg Virginia Plant (USW)	Christiansburg, VA	04/06/09	04/03/09
65758	Paul Mueller, Inc. (Wkrs)	Springfield, MO	04/06/09	03/19/09
65759	Arvin Meritor (State)	Detroit, MI	04/07/09	03/08/09
65760	Classic Leather (Wkrs)	Hickory, NC	04/07/09	04/06/09
65761	True Temper Sports (Wkrs)	Memphis, TN	04/07/09	03/25/09
65762	Chrysler LLC (Wkrs)	Sterling Heights, MI	04/07/09	03/08/09
65763	Leo Schachter Diamond, LLC (Wkrs)	New York, NY	04/07/09	03/30/09
65764	La-Z-Boy South (Comp)	Newton, MS	04/07/09	04/03/09
65765	La-Z-Boy Midwest (Comp)	Neosho, MO	04/07/09	04/03/09
65766	La-Z-Boy Tennessee (Comp)	Dayton, TN	04/07/09	04/03/09
65767	La-Z-Boy Incorporated (Michigan) (Comp)	Monroe, MI	04/07/09	04/03/09
65768	HMC Technologies (Comp)	New Albany, MS	04/07/09	04/06/09
65769	Intat Precision (Wkrs)	Rushville, IN	04/07/09	04/03/09
65770	Westport Shipyard, Inc. (Wkrs)	Westport, WA	04/08/09	04/02/09
65771	Weyerhaeuser Veneer Technologies (State)	Simsboro, LA	04/08/09	04/06/09
65772	Snorkel International (Wkrs)	Elwood, KS	04/08/09	04/06/09
65773	Southern Glove Manufacturing Co., Inc. (Comp)	Conover, NC	04/08/09	04/06/09
65774	Stein Steel Mill Services (USW)	Broadview Heights, OH	04/08/09	03/30/09
65775	Circor Energy (Wkrs)	Oklahoma City, OK	04/08/09	04/07/09
65776	Mercedes-Benz-MBUSI (Wkrs)	Vance, AL	04/08/09	04/03/09

APPENDIX—Continued

[TAA petitions instituted between 4/6/09 and 4/10/09]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
65777	I–Level Wright City Sawmill (Weyerhaeuser) (Comp)	Wright City, OK	04/09/09	04/07/09
65778	VP Buildings Inc. (Wkrs)	Kernersville, NC	04/09/09	04/08/09
65779	Penquin, LLC (Comp)	Sturgis, MI	04/09/09	04/07/09
65780	Bobcat Company (Wkrs)	Gwinner, ND	04/09/09	04/08/09
65781	Mars Petcare (Comp)	McKenzie, TN	04/09/09	04/03/09
65782	Ceco Building Systems (Comp)	Mt. Pleasant, IA	04/10/09	04/09/09
65783	Thomas Steel Strip Corporation (Wkrs)	Warren, OH	04/10/09	04/08/09
65784	Oval International (State)	Hoquiam, WA	04/10/09	04/09/09
65785	Dell USA LP (Wkrs)	Round Rock, TX	04/10/09	04/08/09

[FR Doc. E9–9933 Filed 4–29–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than May 11, 2009.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than May 11, 2009.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 16th day of April 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

APPENDIX

[TAA petitions instituted between 3/30/09 and 4/3/09]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
65696	Alcatel/Lucent (Rep)	Plano, TX	03/30/09	11/03/08
65697	Robin-Lynn Mills, Inc. (Wkrs)	Fort Payne, AL	03/30/09	03/25/09
65698	Matrix Publishing Services (Comp)	York, PA	03/30/09	03/27/09
65699	Samuel Aaron, Inc. (Wkrs)	Long Island City, NY	03/30/09	03/26/09
65700	Weyerhaeuser Raymond Lumber Mill (IAMAW)	Raymond, WA	03/30/09	03/23/09
65701	Imperium Grays Harbor, LLC (Wkrs)	Hoquiam, WA	03/30/09	03/25/09
65702	GM Nameplate, Inc. (Wkrs)	Seattle, WA	03/30/09	03/26/09
65703	Viscotec Auto Products (Wkrs)	Morganton, NC	03/31/09	03/17/09
65704	Chipblaster, Inc. (Wkrs)	Meadville, PA	03/31/09	03/26/09
65705	FLA Orthopedics, Inc. (Comp)	Huntersville, NC	03/31/09	03/30/09
65706	R&B Fabrications (Wkrs)	Oakwood, OH	03/31/09	03/25/09
65707	Paragon Store Fixtures (Comp)	Big Lake, MN	03/31/09	03/30/09
65708	Pattison Sign Group (Wkrs)	Limestone, ME	03/31/09	03/25/09
65709	Mills Products, Inc. (Wkrs)	Athens, TN	03/31/09	03/17/09
65710	Numonyx—California Technology Center (CTC) (Wkrs)	Santa Clara, CA	03/31/09	03/27/09
65711	Cadmus Communications (State)	Easton, MD	03/31/09	03/29/09
65712	Cintas Corporation (Comp)	Portal, GA	03/31/09	03/30/09
65713	Peterson Manufacturing Company (Comp)	Grandview, MO	03/31/09	03/30/09
65714	Egide USA, Inc. (State)	Cambridge, MD	03/31/09	03/30/09
65715	Ram Rod Industries/Prentice (Wkrs)	Prentice, WI	03/31/09	03/24/09
65716	StarTek, Inc. (Wkrs)	Lynchburg, VA	03/31/09	03/06/09
65717	Moyno, Inc.—Robbins and Meyers, Inc. (UAW)	Springfield, OH	03/31/09	03/05/09
65718	Weyerhaeuser/iLevel Dallas Sawmill (Comp)	Dallas, OR	03/31/09	03/26/09
65719	AGC Flat Glass North America, Inc. (Comp)	Kingsport, TN	03/31/09	03/30/09
65720	Roseburg Forest Products, Riddle Plywood #4 (CIC)	Riddle, OR	04/01/09	03/27/09
65721	Roseburg Forest Products, Dillard Particleboard (CIC)	Dillard, OR	04/01/09	03/27/09
65722	Roseburg Forest Products, Dillard Plywood (CIC)	Dillard, OR	04/01/09	03/27/09
65723	Eagle Compressor (Wkrs)	Hickman, KY	04/01/09	03/21/09

APPENDIX—Continued

[TAA petitions instituted between 3/30/09 and 4/3/09]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
65724	Ryerson, Inc. (Wkrs)	Portland, OR	04/01/09	03/26/09
65725	Roseburg Forest Products, EWP (Union)	Riddle, OR	04/01/09	03/27/09
65726	Caterpillar (Wkrs)	Aurora, IL	04/01/09	03/17/09
65727	Tesco Tech (Comp)	Auburn Hills, MI	04/01/09	03/31/09
65728	NCI Group, Inc. (ILWU)	Lockeford, CA	04/01/09	03/31/09
65729	Niagara Cutter, Inc. (Wkrs)	Reynoldsville, PA	04/01/09	03/31/09
65730	Bridgestone APM Plant 1 (Wkrs)	Carey, OH	04/01/09	03/30/09
65731	Maverick Tube LLC (Comp)	Counce, TN	04/02/09	02/18/09
65732	Essilor Laboratories of America (Comp)	St. Petersburg, FL	04/02/09	04/01/09
65733	Wausau Paper Specialty Products, LLC (State)	Jay, ME	04/02/09	04/01/09
65734	Meridlan Automotive Systems—Plant #5 (Comp)	Grand Rapids, MI	04/02/09	03/20/09
65735	Johnson Controls, Inc. (State)	Holland, MI	04/02/09	03/01/09
65736	Idex Solutions (State)	Portland, OR	04/02/09	04/01/09
65737	Compute Science Corporation (Wkrs)	Caledonia, MI	04/02/09	03/25/09
65738	Weyerhaeuser Longview Lumber (IAMAW)	Longview, WA	04/02/09	03/17/09
65739	Eos Airlines Incorporated (Wkrs)	Purchase, NY	04/02/09	03/30/09
65740	Best Shingle Sales, Inc. (Wkrs)	Hoquiam, WA	04/03/09	04/03/09
65741	3M Company (Comp)	Columbia, MO	04/03/09	04/02/09
65742	Koppy Corporation (State)	Orion, MI	04/03/09	03/04/09
65743	Lionbridge US, Inc (State)	Waltham, MA	04/03/09	03/27/09
65744	Marin Independent Journal (Comp)	Novato, CA	04/03/09	03/31/09
65745	Delphi (Union)	Flint, MI	04/03/09	04/03/09
65746	Plum Creek Northwest Plywood, Inc. (Comp)	Kalispell, MT	04/03/09	04/02/09
65747	Parker Hannifin/Nichols Portland Div. (Wkrs)	Portland, ME	04/03/09	03/30/09
65748	Elkay Manufacturing Company (Comp)	Oak Brook, IL	04/03/09	04/02/09

[FR Doc. E9–9932 Filed 4–29–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of *April 6 through April 10, 2009.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed

importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (*i.e.,* conditions within the industry are adverse).

Affirmative Determinations For Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

None

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) of the Trade Act have been met.

None

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

None

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) of the Trade Act have been met.

None

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–64,889; Columbia Machine, Inc., Vancouver, WA: January 12, 2008.

TA–W–65,142; Nyloncraft of Michigan, Jonesville, MI: January 29, 2008.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–65,127; MWV Calmar, Addeco, Washington Courthouse, OH: February 2, 2008.

TA–W–65,234; Kaz, Inc., Talent Force, Memphis, TN: February 11, 2009.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–65,323; Woodbridge Corporation, Brodhead, WI: February 16, 2008.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

None

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

The Department has determined that criterion (1) of Section 246 has not been met. The firm does not have a significant number of workers 50 years of age or older.

None

The Department has determined that criterion (2) of Section 246 has not been met. Workers at the firm possess skills that are easily transferable.

None

The Department has determined that criterion (3) of Section 246 has not been met. Competition conditions within the workers' industry are not adverse.

None

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

TA–W–64,992; AK Steel Corporation, Butter Works Division, Butler, PA.

TA–W–65,014; Ralphs Frame Works, Inc., High Point, NC.

TA–W–65,265; Advanced Energy Industries, Inc.—Austin, Austin, TX.

The investigation revealed that criteria (a)(2)(A)(I.B.) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

None

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–64,271; Knight Celotex, LLC, A Subsidiary of Knight Industries, LLC, Lisbon Falls, ME.

TA–W–64,906; Fabric Trends International, LLC, West Hartford, CT.

TA–W–64,994; Clear Lake Lumber, Inc., Spartansburg, PA.

TA–W–65,050; Ball Corporation, Kansas City, MO.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–65,000; ConMed Electrosurgery, El Paso, TX.

TA–W–65,035; Align Technology, Inc., Santa Clara, CA.

The investigation revealed that criteria of Section 222(b)(2) has not been met. The workers' firm (or subdivision) is not a supplier to or a downstream producer for a firm whose workers were certified eligible to apply for TAA.

None

I hereby certify that the aforementioned determinations were issued during the period of *April 6 through April 10, 2009.* Copies of these determinations are available for inspection in Room N–5428, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: April 15, 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–9934 Filed 4–29–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of *April 13 through April 17, 2009.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, the African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (i.e., conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

None

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) of the Trade Act have been met.

None.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–65,097; AdMart Custom Signage, Danville, KY: February 2, 2008

TA–W–65,149; HDM Furniture Industries, Drexel Heritage, Plant 7, Hickory, NC: February 2, 2008

TA–W–65,344A; Noranda Aluminum, Inc., Rod Mill Department, New Madrid, MO: February 20, 2008

TA–W–65,344; Noranda Aluminum, Inc., Metal Products Department, New Madrid, MO: February 20, 2008

TA–W–65,416; Pilgrim Home and Hearth, LLC, Benicia, CA: January 26, 2008

TA–W–65,421; Ashley Furniture Industries, Inc., Upholstery Division, Ripley, MS: February 26, 2008

TA–W–64,699; Kimrick, LP, Ft Worth, TX: December 11, 2007

TA–W–64,919; Modine Manufacturing Company, North America Division, Logansport, IN: September 30, 2008

TA–W–65,274; Delaco Steel Processing, Dearborn, MI: February 13, 2008

TA–W–65,560; True Textiles, Inc., Grand Rapids, MI: March 10, 2008
TA–W–65,678; Bihler of America, Inc., Staffing Alternatives, Phillipsburg, NJ: March 12, 2008
TA–W–65,229; Royall Company, Inc., Specialty Die and Finishing, Conover, NC: February 10, 2008

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–65,585; Simpson Door Company, Simpson Investment Company, McCleary, WA: March 11, 2008
TA–W–65,694; Indiana Tube Corporation, Subsidiary of WHX, Evansville, IN: April 12, 2009
TA–W–65,472; Lincoln Industrial Corporation, St. Louis, MO: February 26, 2008
TA–W–64,572; Merrill Corp., Everett, MA: December 1, 2007
TA–W–65,399; HDM Furniture Industries, Henredon Plant #9, Mt. Airy, NC: February 25, 2008

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–64,806; Garvin Industries, Guarantee Div., Adamsville, PA: January 2, 2008
TA–W–64,934A; Borgwarner Morse Tec, Inc., Powder Metal Operations Div., Cortland, NY: January 20, 2007
TA–W–64,934B; Borgwarner Morse Tec, Inc., Transmission Components Div., Cortland, NY: January 20, 2007
TA–W–64,934; Borgwarner Morse Tec, Inc., Engine Timing Components Div., Ithaca, NY: January 20, 2007
TA–W–65,129; Wilson-Hurd Manufacturing Co., LCD Division, Adecco, Lifestyles, Berlin, WI: February 4, 2008
TA–W–65,475; Mohawk Industries, Inc., Flooring Mfg. Div., Oslten Temp, Dillon, SC: February 4, 2008
TA–W–65,489; Evergy, Inc., A Division of Tecumseh Products Company, Paris, TN: February 17, 2008
TA–W–65,536; HS Converting, A Subsidiary of Hickory Springs Mfg. Co., Conover, NC: March 10, 2009
TA–W–65,688; HB Carbide, A Subsidiary of Star Cutter Company, Lewiston, MI: March 26, 2008
TA–W–65,689; Ossineke Industries, A Subsidiary of Star Cutter Company, Ossineke, MI: March 26, 2008

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–65,483; Viasystems, Newberry, SC: March 3, 2008

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

The Department has determined that criterion (1) of Section 246 has not been met. The firm does not have a significant number of workers 50 years of age or older.

None.

The Department has determined that criterion (2) of Section 246 has not been met. Workers at the firm possess skills that are easily transferable.

None.

The Department has determined that criterion (3) of Section 246 has not been met. Competition conditions within the workers' industry are not adverse.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

None.

The investigation revealed that criteria (a)(2)(A)(I.B.) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–65,650; Aero-Metric, Inc., Sheboygan, WI.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–64,900; Direct Tooling Group, Inc., Wayland, MI.
TA–W–65,125; RMK Industries, Inc., Rochester Hills, MI.
TA–W–65,467; Kenworth Truck Company, A Subsidiary of Paccar, Inc., Renton, WA.
TA–W–65,493; Plains Cotton Cooperative Association, Lubbock, TX.
TA–W–65,508; Camp-Hill Corporation, McKeesport, PA.
TA–W–65,516; Bauer Industries, Inc., Hildebran, NC.
TA–W–65,526; Monaco Coach Corporation, Coburg, OR.
TA–W–65,540; Trinity Rail Industries Plant #19, Longview, TX.
TA–W–65,453; Tokyo Electron Massachusetts, Inc., Beverly, MA.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–65,739; Eos Airlines Incorporated, Purchase, NY.

The investigation revealed that criteria of Section 222(b)(2) has not been met. The workers' firm (or subdivision) is not a supplier to or a downstream producer for a firm whose workers were certified eligible to apply for TAA.

None.

I hereby certify that the aforementioned determinations were issued during the period of *April 13 through April 17, 2009.* Copies of these determinations are available for inspection in Room N–5428, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal business hours or will be mailed to persons who write to the above address.

Date: April 23, 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–9939 Filed 4–29–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,669]

Century Furniture, LLC, Chair Upholstery Campus and Uphosltery Division, Hickory, NC; Notice of Revised Determination on Reconsideration

On March 13, 2009, the Department issued an Affirmative Determination Regarding Application on Reconsideration applicable to workers and former workers of the subject firm. The notice was published in the **Federal Register** on March 31, 2009 (74 FR 14594).

The initial investigation initiated on December 15, 2008, resulted in a negative determination issued on January 12, 2009, was based on the finding that the subject firm did not

separate or threaten to separate a significant number or proportion of workers as required by Section 222 of the Trade Act of 1974. The denial notice was published in the **Federal Register** on February 2, 2009 (74 FR 5871).

In the request for reconsideration, the company official provided additional information regarding employment and layoffs at the subject firm. The company official confirmed that employment at the subject facility declined significantly in December, 2008 and further declined in January, 2009. The investigation also revealed that sales and production at the subject firm declined from January through November 2008 over the corresponding 2007 period.

Furthermore, the Department conducted a survey of the major declining customers regarding their purchases of upholstered furniture in 2006, 2007, January through November, 2007 and January through November, 2008. The survey of the major declining customers revealed that the customers increased their reliance on imported upholstered furniture during the relevant period.

In accordance with Section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor herein presents the results of its investigation regarding certification of eligibility to apply for alternative trade adjustment assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of Section 246 of the Trade Act must be met. The Department has determined in this case that the requirements of Section 246 have been met.

A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at Century Furniture, LLC, Chair Upholstery Campus and Upholstery Division, Hickory, North Carolina, contributed importantly to the declines in sales or production and to the total or partial separation of workers at the subject firm. In accordance with the provisions of the Act, I make the following certification:

''All workers of Century Furniture, LLC, Chair Upholstery Campus and Upholstery Division, Hickory, North Carolina, who became totally or partially separated from employment on or after December 11, 2007, through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.''

Signed in Washington, DC, this 20th day of April 2009.

Elliott S. Kushner

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–9930 Filed 4–29–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,591]

Gensym Corporation, a Subsidiary of Versata Enterprises, Inc., Burlington, MA; Notice of Negative Determination on Reconsideration

On March 2, 2009, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The notice was published in the **Federal Register** on March 11, 2009 (74 FR 10616–10617).

The initial investigation resulted in a negative determination based on the finding that worker group does not produce an article within the meaning of Section 222 of the Trade Act of 1974. The investigation revealed that workers of Gensym Corporation, a subsidiary of Versata Enterprises, Inc., Burlington, Massachusetts were engaged in IT sales, consulting, customer support services, finance and human resources services.

In the request for reconsideration the petitioner contends that the Department erred in its interpretation of the work performed by the workers of the subject firm. The petitioner states that workers of the subject firm produced several software products, such as G2, Rethink and Neuron-line.

On reconsideration, the Department contacted a company official and requested additional information regarding the production of software by Gensym Corporation and whether workers of the subject firm were engaged in production of the above mentioned products during the relevant period.

The company official stated that the workers of the subject firm did produce software. However, the company official also stated that all software products, including the software mentioned by the petitioner in the request for reconsideration, were designed and developed prior to October 2007. The company official further provided information to confirm that no production of software took place at the subject firm during the relevant period.

When assessing eligibility for TAA, the Department exclusively considers production during the relevant period (one year prior to the date of the petition). Events occurring prior to October 2007 are outside of the relevant time period as established by the petition date of December 2, 2008, and thus cannot be considered in this investigation.

The investigation revealed that during the relevant period, the workers of Gensym Corporation, a subsidiary of Versata Enterprises, Inc., Burlington, Massachusetts, sold licenses to already established products, provided customer support and enhancement services for the licensed software and performed finance and human resources services.

These functions, as described above, are not considered production of an article within the meaning of Section 222 of the Trade Act. No production took place at the subject facility during the relevant period, nor did the workers support production of an article at any domestic location during the relevant period.

The petitioner also alleges that job functions have been shifted from the subject firm to India, China and Mexico.

The allegation of a shift to another country might be relevant if it was determined that workers of the subject firm produced an article. However, the investigation determined that workers of Gensym Corporation, a subsidiary of Versata Enterprises, Inc., Burlington, Massachusetts, do not produce an article within the meaning of Section 222 of the Trade Act of 1974.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Gensym Corporation, a subsidiary of Versata Enterprises, Inc., Burlington, Massachusetts.

Signed at Washington, DC, this 21st day of April 2009.

Elliott S. Kushner

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–9938 Filed 4–29–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,431]

Alyeska Pipeline Service Company, Anchorage, AK; Notice of Negative Determination Regarding Application for Reconsideration

By application dated March 20, 2009, a company official requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA), applicable to workers and former workers of the subject firm. The denial notice was signed on January 26, 2009 and published in the **Federal Register** on February 23, 2009 (74 FR 8116).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The initial investigation resulted in a negative determination, which was based on the finding that imports of crude oil did not contribute importantly to worker separations at the subject facility and there was no shift of production to a foreign country. The subject firm did not import crude oil nor shift production of crude oil to a foreign country during the 2006, 2007 and January through October 2008 period.

The petitioner alleged that the subject firm had to automate their 30 year old manned facilities, in order to stay competitive with lower cost foreign crude oil production locations and reduce costs.

The initial investigation, in fact, revealed that automation of the facilities and technological improvements were the reason behind the worker separations at the subject firm.

The petitioner also alleged that foreign imports of crude oil have increased from 2003 through 2008, thus negatively impacting production of crude oil at the subject firm.

In order to establish import impact, the Department considers import numbers for the relevant period (one year prior to the date of the petition). According to the data available from the United States Department of Energy, United States imports of crude oil have been decreasing absolutely and relatively to U.S. production of crude oil from 2006 to 2007 and further decreased from January through October 2008, when compared with the corresponding 2007 period.

The petitioner further alleges that job losses at the subject facility were also attributable to a shift in production of crude oil to foreign locations.

The investigation revealed that Alyeska Pipeline Service Company, Anchorage Pipeline Service Company did not shift production of crude oil from the subject facility to a foreign country during the relevant period.

The petitioner did not supply facts not previously considered; nor provide additional documentation indicating that there was either (1) a mistake in the determination of facts not previously considered or (2) a misinterpretation of facts or of the law justifying reconsideration of the initial determination.

After careful review of the request for reconsideration, the Department determines that 29 CFR 90.18(c) has not been met.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, DC, this 14th day of April 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–9937 Filed 4–29–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,067]

Crosible, Inc., U.S. Division, Including Workers Whose Wages Are Reported Under the Federal Employer Identification Number for Madison Filter Inc., Now Known as Clear Edge Filtration, Moravia, NY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification Regarding Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on September 12, 2007, applicable to workers and former workers of Crosible, Inc., U.S. Division, Moravia, New York. The notice was published in the **Federal Register** on September 27, 2007 (72 FR 54939). The certification was amended on February 9, 2009 to reflect the new name of the subject firm, Clear Edge Filtration. The notice was published in the **Federal Register** on February 23, 2009 (74 FR 8110–8111).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. Workers produce filters, made of fabric, used for air and water filtration systems.

New information provided shows that some of the workers at the subject firm have their Unemployment Insurance wages reported under the tax account for Madison Filter Inc.

The intent of the Department's certification is to include all workers of Crosible, Inc., who were adversely affected by a shift of filter production to Mexico. Consequently, the Department is again amending the certification to properly reflect this matter.

The amended notice applicable to TA–W–62,067 is hereby issued as follows:

''All workers of Crosible, Inc., U.S. Division, including workers whose wages are reported under the Federal Employer Identification Number for Madison Filter Inc., now known as Clear Edge Filtration, Moravia, New York, who became totally or partially separated from employment on or after August 27, 2006, through September 12, 2009, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.''

Signed at Washington, DC, this 20th day of April 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–9935 Filed 4–29–09; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (09–038)]

National Space-Based Positioning, Navigation and Timing (PNT) Advisory Board; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the National Space-Based Positioning, Navigation and Timing (PNT) Advisory Board. The agenda for the meeting includes updates from each of the three PNT Panels (Leadership, Strategic Engagement and Communication, Future Challenges), including discussion and deliberation of potential recommendations. The PNT Advisory Board will address U.S. Government interests in the following areas:

- Implementation of the President's 2004 U.S. Space-Based Positioning, Navigation and Timing Policy.
- National Space-Based PNT Executive Committee, and National Space-Based PNT Coordination Office.
- Global Positioning System (GPS) Constellation and Modernization Plans.
- U.S. GPS Technological Leadership and Competitiveness.
- Promoting and Branding Current and Future PNT Capabilities to the U.S. and International Communities.
- Global Technical and Market Trends for PNT Services.
- Future Areas of Study.

DATES: Thursday, May 14, 2009, 9 a.m.–5 p.m.; Friday, May 15, 2009, 9 a.m.–1 p.m.

ADDRESSES: Embassy Suites Hotel at Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015–2020, phone: 202–362–9300.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Miller, Space Operations Mission Directorate, National Aeronautics and Space Administration, Washington, DC, 20546. Phone 202–358–4417.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Dated: April 24, 2009.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. E9–9880 Filed 4–29–09; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2009–0155]

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 150, ''Exemptions and Continued Regulatory Authority in Agreement States and in Offshore Waters under section 274.''

2. *Current OMB approval number:* 3150–0032.

3. *How often the collection is required:* 10 CFR 150.16(b), 150.17(c), and 150.19(c) require the submission of reports following specified events, such as the theft or unlawful diversion of licensed radioactive material. The source material inventory reports required under 10 CFR 150.17(b) must be submitted annually by certain licensees.

4. *Who is required or asked to report:* Agreement State licensees authorized to possess source or special nuclear material at certain types of facilities, or at any one time and location in greater than specified amounts. In addition, persons engaging in activities in non-Agreement States, in areas of exclusive Federal jurisdiction within Agreement States, or in offshore waters.

5. *The number of annual respondents:* 15.

6. *The number of hours needed annually to complete the requirement or request:* 190 hours.

7. *Abstract:* 10 CFR part 150 provides certain exemptions from NRC regulations for persons in Agreement States. Part 150 also defines activities in Agreement States and in offshore waters over which NRC regulatory authority continues, including certain information collection requirements. The information is needed to permit NRC to make reports to other governments and the International Atomic Energy Agency in accordance with international agreements. The information is also used to carry out NRC's safeguards and inspection programs.

Submit, by June 29, 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, MD 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–2009–0155. 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–2009–0155. 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 24th day of April 2009.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. E9–9941 Filed 4–29–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–455; NRC–2009–0182]

Exelon Generation Company, LLC, Byron Station, Unit No. 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from Title 10 of the Code of Federal Regulations (10 CFR), Part 50, Section 50.46, ''Acceptance criteria for emergency core cooling systems for light-water nuclear power reactors,'' paragraph (a)(1)(i) for Facility Operating License No. NPF–66, issued to Exelon Generation Company, LLC (Exelon, the licensee), for operation of the Byron Station, Unit No. 2 (Byron 2), located in Ogle County, Illinois. Therefore, as specified in 10 CFR 51.21, the NRC staff has performed an environmental assessment as described in this notice and has made a finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action:

The proposed action would grant an exemption from the requirement of 10 CFR 46(a)(1)(i) related to fuel cladding material. The proposed action would allow a third cycle of irradiation (i.e., burnup) for up to 16 twice-burned fuel rods in Westinghouse AXIOM™ cladding in a lead test assembly (LTA), with the remaining fuel rods in the LTA being fresh fuel rods in AXIOM™ cladding. This third cycle of irradiation is expected to begin in the Cycle 16 core for Byron 2 in the spring of 2010. Previously, by letter dated June 30, 2006 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML061380518), the NRC staff approved the irradiation of four LTAs containing AXIOM™ clad fuel rods in the Byron Station, Unit No. 1 (Byron 1) Cycle 15 core. In the same letter, the NRC staff also approved the re-insertion of two of the four LTAs into the Byron 1 Cycle 16 core and the other two LTAs into the Byron 2 Cycle 15 core. Byron 1 is currently operating in Cycle 16; Byron 2 is currently operating in Cycle 15. Prior to re-insertion of the LTAs into the Cycle 16 and Cycle 15 cores, respectively, for the second cycle of irradiation, the licensee performed post-irradiation examination (PIE) for the LTAs. During the spring 2010, Byron 2 refueling outage, the licensee plans to perform PIE for the two LTAs, then re-insert one LTA into the Byron 2 Cycle 16 core to gain high burnup data. The LTA will consist of fresh fuel rods in AXIOM™ cladding along with up to 16 twice-burned fuel rods in AXIOM™ cladding selected from the irradiated LTAs. The licensee estimated that, at the beginning of this third cycle, the twice-burned fuel rods will have a burnup of approximately 50,000 megawatt days per metric ton uranium (MWD/MTU) and, at the end of this third cycle, the fresh fuel rods would reach an average burnup of approximately 27,500 MWD/MTU and the twice-burned fuel rods could reach a peak rod average burnup of 75,000 MWD/MTU.

The proposed action is in response to the licensee's exemption request dated March 24, 2008 (ADAMS Accession No. ML080850235). Also, information in the licensee's letter dated September 23, 2005 (ADAMS Accession No. ML060930560), that supported the exemption previously issued on June 30, 2006, has been considered in this action.

The Need for the Proposed Action:

Pursuant to 10 CFR 50.12, ''Specific exemptions,'' the licensee, in its letter dated March 24, 2008, requested an exemption from the requirements of 10 CFR 50.46 and 10 CFR Part 50, Appendix K for one LTA using AXIOM™ cladding.

As the licensee stated in its letter dated March 24, 2008, ''The purpose of irradiating the twice-burned AXIOM™ clad fuel rods in a fresh LTA is to: (1) Evaluate the AXIOM™ clad fuel rod performance at projected rod burnups between 72,000 to 75,000 MWD/MTU, (2) collect fuel clad profilometry data after one cycle for the fresh rods and after three cycles for the high burnup rods, and (3) evaluate AXIOM™ clad integral fuel burnable absorber fuel rod performance.''

The regulation at 10 CFR 50.46(a)(1)(i) requires that ''[e]ach boiling or pressurized light-water nuclear power reactor fueled with uranium oxide pellets within cylindrical zircaloy or ZIRLO cladding must be provided with an emergency core cooling system (ECCS) that must be designed so that its calculated cooling performance following postulated loss-of-coolant accidents conforms to the criteria set forth in paragraph (b) of this section.'' The regulation at 10 CFR 50.46(a)(1)(ii) requires that, ''[a]lternatively, an ECCS evaluation model may be developed in conformance with the required and acceptable features of appendix K ECCS Evaluation Models.'' Appendix K of 10 CFR Part 50 requires, in paragraph I.A.5, that ''[t]he rate of energy release, hydrogen generation, and cladding oxidation from the metal/water reaction shall be calculated using the Baker-Just equation (Baker, L., Just, L.C., ''Studies of Metal Water Reactions at High Temperatures, III. Experimental and Theoretical Studies of the Zirconium-Water Reaction,'' ANL–6548, page 7, May 1962).'' The regulations make no provisions for use of fuel rods clad in a material other than zircaloy or ZIRLO™. As noted previously, the licensee plans to irradiate one LTA using fuel rods clad with AXIOM™ alloy in Byron 2. Because the material specification of the AXIOM™ alloy differs from the specification for zircaloy and ZIRLO™, the licensee requested a plant-specific exemption from the requirements of 10 CFR 50.46 and 10 CFR Part 50, Appendix K, to support the use of the LTA for Byron 2.

As a result of the NRC staff's safety evaluation, the details of which will be provided as part of the letter to the licensee approving the exemption from 10 CFR 50.46(a)(1)(i), the NRC staff determined that an exemption from 10 CFR Part 50, Appendix K, is not necessary in this circumstance and, therefore, is not issuing an exemption from 10 CFR Part 50, Appendix K.

Environmental Impacts of the Proposed Action:

The proposed action would grant an exemption from a regulation for the acceptance and analytical criteria for emergency core cooling systems; the exemption is not an exemption from regulations directly governing offsite dose/exposure, occupational exposure, or the environment.

The NRC staff has completed its evaluation of the proposed action and concludes that there are no significant environmental impacts associated with the use of one LTA using AXIOM™ cladding for a third cycle of irradiation up to a burnup of 75,000 MWD/MTU. The following is a summary of the NRC staff's evaluation:

In this environmental assessment, the NRC staff is relying, in addition to information submitted by the licensee, on the results of a study conducted for it by the Pacific Northwest National Laboratory (PNNL) entitled,

''Environmental Effects of Extending Fuel Burnup Above 60 GWD/MTU [gigawatt days per metric ton uranium],'' NUREG/CR–6703, PNNL–13257, January 2001. Although the study evaluated the environmental impacts of high burnup fuel up to 75,000 MWD/MTU, certain aspects of the review were limited to evaluating the impacts of extended burnup up to 62,000 MWD/MTU because of the need for additional data about the effect of extended burn-up on gap-release fractions. During the study, all aspects of the fuel-cycle were considered, from mining, milling, conversion, enrichment and fabrication through normal reactor operation, transportation, waste management, and storage of spent fuel.

The NRC staff has concluded that such changes would not adversely affect plant safety, and would have no adverse effect on the probability of any accident. For accidents that involve damage or melting of the fuel in the reactor core, fuel rod integrity has been shown to be unaffected by the extended burnup under consideration; therefore, the probability of an accident will not be affected. For accidents in which the core remains intact, the increased burnup may slightly change the mix of fission products that could be released in the event of a serious accident; however, the NRC staff concludes that the limited number of high burnup fuel rods in one LTA will not result in a significant change during core-wide events.

Accidents that involve the damage or melting of the fuel in the reactor core and spent fuel handling accidents were also evaluated in NUREG/CR–6703. The accidents considered were a loss-of-coolant accident (LOCA), a steam generator tube rupture, and a fuel-handling accident (FHA).

For LOCAs, the amount of radionuclides that would be released from the core (1) is proportional to the amount of radionuclides in the core and (2) is not significantly affected by the gap-release fraction. The gap-release fraction is a small contributor to the amount of radionuclides available for release when the fuel is severely damaged. Any increase in the amount of some longer-lived radionuclides available for release from the single LTA (1) will be small and (2) will not result in a significant increase in the overall core inventory of radionuclides. Therefore, there would be no significant increase in the previously calculated dose from a LOCA and the dose would remain below regulatory limits.

The pressurized-water reactor steam generator tube rupture accident involves direct release of radioactive material from contaminated reactor coolant to the environment. No change is being requested by the licensee to the Byron Station technical specifications (TSs) pertaining to allowed cooling-water activity concentrations. The maximum coolant activity is regulated through TSs that are independent of fuel burnup. Therefore, the gap-release fraction does not significantly affect the amount of radionuclides available for release during a steam generator tube rupture. Therefore, there would be no significant increase in the previously-calculated dose from a steam generator tube rupture and the calculated dose would remain below regulatory limits.

The scenario postulated to evaluate potential FHAs involves a direct release of gap activity to the environment. The assumptions regarding gap activity are based on guidance in Regulatory Guide 1.183, ''Alternative Radiological Source Terms for Evaluating Design Basis Accidents at Nuclear Power Reactors,'' July 2000, and in NUREG/CR–5009, ''Assessment of the Use of Extended Burnup Fuel in Light Water Power Reactors,'' February 1988. The gap activity consists primarily of noble gases and iodine. The isotopes that contribute significant fractions of the whole body and thyroid doses are ^{87}Kr and ^{131}I, respectively. The inventory of iodine and the primary dose contributor, decreases with increasing burnup. In addition, the single LTA will only contribute a small variation in the isotopic population of the entire Byron 2 core (193 fuel assemblies). In its letter dated March 24, 2008, the licensee discussed the conservatisms associated with the Byron FHA dose calculation, specifically: Use of the alternative source term methodology, the relative power for this particular LTA in Cycle 16, offloading time, containment isolation, and mechanical fuel damage due to impact. Based on the considerations discussed above, the NRC staff concludes (1) that the increase in the previously calculated dose resulting from a FHA involving the one LTA would not be significant, and (2) that the dose would remain below regulatory limits.

Regulatory limits on radiological effluent releases are independent of burnup. The requirements of 10 CFR 50.36a, ''Technical specifications on effluents from nuclear power reactors,'' and 10 CFR Part 50, Appendix I, ''Numerical Guides for Design Objectives and Limiting Conditions for Operation to Meet the Criterion 'As Low as is Reasonably Achievable' for Radioactive Material in Light-Water-Cooled Nuclear Power Reactor Effluents,'' ensure that any release of gaseous, liquid, or solid radiological effluents to unrestricted areas are kept ''as low as reasonably achievable.'' Therefore, the NRC staff concludes that during routine operations, there will be no significant increase in the amount of gaseous radiological effluents released into the environment as a result of the proposed action, nor will there be a significant increase in the amount of liquid radiological effluents or solid radiological effluents released into the environment.

No significant increase in the allowable individual or cumulative occupational radiation exposure will occur. The impacts to workers is expected to be reduced with higher irradiation due to the need for less frequent outages for fuel changes and less frequent fuel shipments to and from reactor sites.

The use of extended irradiation will not change the potential environmental impacts of incident-free transportation of spent nuclear fuel or the accident risks associated with spent fuel transportation if the fuel is cooled for 5 years after discharge from the reactor. NUREG/CR–6703 concluded that doses associated with incident-free transportation of spent fuel with burnup to 75 GWD/MTU are bounded by the doses given in 10 CFR 51.52, ''Environmental effects of transportation of fuel and waste—Table S–4,'' for all regions of the country if dose rates from the shipping casks are maintained within regulatory limits. Increased fuel burnup will decrease the annual discharge of fuel to the spent fuel pool, which will postpone the need to remove spent fuel from the pool.

With regard to potential non-radiological environmental impacts of reactor operation with extended irradiation, the proposed changes involve systems located within the restricted area as defined in 10 CFR part 20, ''Standards For Protection Against Radiation.''

Therefore, the proposed action does not result in any significant changes to land use or water use, or result in any significant changes to the quality or quantity of effluents. The proposed action does not affect nonradiological plant effluents, and no changes to the National Pollution Discharge Elimination System permit are needed. No effects on the aquatic or terrestrial habitat in the vicinity of the plant, or to endangered or threatened species, or to the habitats of endangered or threatened species are expected. The proposed action does not have a potential to affect any historical or archaeological sites.

The proposed action will not change the method of generating electricity or the method of handling any influents

from the environment or non-radiological effluents to the environment. Therefore, no changes or different types of non-radiological environmental impacts are expected as a result of the exemption.

Accordingly, the NRC staff concludes that there are no significant environmental impacts associated with the proposed action.

For more detailed information regarding the environmental impacts of extended fuel burnup, please refer to NUREG/CR–6703.

The details of the NRC staff's safety evaluation will be provided in the exemption that will be issued as part of the letter to the licensee approving the exemption to the regulation.

Environmental Impacts of the Alternatives to the Proposed Action:

As an alternative to the proposed action, the NRC staff considered denial of the proposed action (*i.e.,* the ''no-action'' alternative). Denial of the exemption request would result in no change in current environmental impacts. The environmental impacts of the proposed exemption and this alternative are similar.

Alternative Use of Resources:

The action does not involve the use of any different resources than those previously considered in the ''Final Environmental Statement Related to the Operation of Byron Station, Units 1 and 2,'' NUREG–0848, dated April 1982.

Agencies and Persons Consulted:

In accordance with its stated policy, on February 27, 2009, the NRC staff consulted with the Illinois State official, Mr. Frank Niziolek of the Illinois Emergency Management Agency, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC staff has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated March 24, 2008 (ADAMS Accession No. ML080850235). Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 1555 Rockville Pike, Rockville, Maryland 20852. Publicly available records will be accessible electronically from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site: *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or send an e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 23rd day of April 2009.

For The Nuclear Regulatory Commission

Christopher Gratton,

Senior Project Manager, Plant Licensing Branch III–2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E9–9950 Filed 4–29–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–32694; NRC–2009–0183]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for Amendment of Byproduct Materials License No. 24–00513–38, for Unrestricted Release of Facilities at University of Missouri in St. Louis, MO

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of environmental assessment and finding of no significant impact for license amendment.

FOR FURTHER INFORMATION CONTACT: Peter J. Lee, PhD, CHP, Health Physicist, Materials Control, ISFSI, and Decommissioning Branch, Division of Nuclear Materials Safety, Region III, U.S. Nuclear Regulatory Commission, 2443 Warrenville Road, Lisle, Illinois 60532; telephone: (630) 829–9870; fax number: (630) 515–1259; or by e-mail at *Peter.Lee@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend Byproduct Materials License No. 24–00513–38. This license is held by the Curators of the University of Missouri (the Licensee) for its facilities located at 8001 Natural Bridge Road, St. Louis, Missouri. Issuance of the amendment would authorize release of certain laboratories, designated by the licensee as R–109, R–201, R–411, R–412, R–417, R–433, R–435, R–439, and S–466 (collectively, the ''Facility''), for unrestricted use. The Facility is located at the above address. The Licensee requested this action in letter dated February 10, 2009 (ADAMS Accession No. ML090480210). The NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements of Title 10, Code of Federal Regulations (CFR), Part 51 (10 CFR part 51). Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate with respect to the proposed action. The amendment will be issued to the Licensee following the publication of this FONSI and EA in the **Federal Register**.

II. Environmental Assessment

Identification of Proposed Action

The proposed action would approve the Licensee's February 10, 2009, license amendment request, resulting in the release of the Facility for unrestricted use (the criteria for unrestricted use is set forth in 10 CFR 20.1402). The applicable NRC decommissioning regulation, under which this proposed action would be carried out, is 10 CFR 30.36. License No. 24–00513–38 was issued on August 21, 1992, pursuant to 10 CFR part 30, and has been amended periodically since that time. The license authorizes the use of by-product materials for laboratory research and development, including metabolic labeling and in-vitro experiments. The licensee ceased using licensed materials in the Facility in 2008. The Licensee has conducted radiological surveys of the Facility (the licensee conducted surveys for laboratories R–109 and R–201 in 2007, and conducted surveys for the remainder of the laboratories in 2008). The results of these surveys were provided to the NRC to demonstrate that the criteria in 10 FR 20.1402 for unrestricted release have been met.

Need for the Proposed Action

The Licensee has ceased conducting licensed activities at the Facility and seeks the unrestricted use of its Facility.

Environmental Impacts of the Proposed Action

The historical review of licensed activities conducted at the Facility shows that such activities involved use of hydrogen-3, carbon-14, phosphorus-32, phosphorus-33, sulfur-35, molybdenum-99, iodine-125, and cesium-137. Prior to performing the radiological surveys, the Licensee conducted decontamination activities, as necessary, in the areas of the Facility affected by these radionuclides.

Three radiological survey reports, together covering all areas of the facility, were attached to the licensee's amendment request dated February 10,

2009. The Licensee elected to demonstrate compliance with the radiological criteria for unrestricted release as specified in 10 CFR 20.1402 by using the screening values described in NUREG–1757, ''Consolidated Decommissioning Guidance,'' Volume 1 (ML020380209) as the radionuclide-specific derived concentration guideline levels (DCGLs) [1]. These values provide acceptable levels of surface contamination to demonstrate compliance with the NRC requirements in 10 CFR 20.1402 for unrestricted release. The Licensee's survey results were below these values and are in compliance with the As Low As Reasonably Achievable (ALARA) requirement of 10 CFR 20.1402. The NRC thus finds that the Licensee's survey results are acceptable.

Based on its review, the staff has determined that the affected environment and any environmental impacts associated with the proposed action are bounded by the impacts evaluated by the ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC–Licensed Nuclear Facilities'' (NUREG–1496) Volumes 1–3 (ML042310492, ML042320379, and ML042330385).

The staff finds there were no significant environmental impacts from the use of radioactive material at the Facility. The NRC staff reviewed available docket file records and the survey results to identify any non-radiological hazards that may have impacted the environment surrounding the Facility. No such hazards or impacts to the environment were identified. The NRC has identified no other radiological or non-radiological activities in the area that could result in cumulative environmental impacts.

The NRC staff finds that issuance of the proposed amendment authorizing release of the Facility for unrestricted use is in compliance with applicable NRC regulations. Based on its review, the staff considered the impact of the residual radioactivity at the Facility and concluded that the proposed action will not have a significant effect on the quality of the human environment.

[1] The survey for laboratories R–109 and R–201 relied upon the screening values set forth in NRC Regulatory Guide (RG) 1.86, ''Termination of Operating Licenses for Nuclear Reactor,'' (June 1974). The RG 1.86 screening values are more conservative than, and as such are bound by, the screening values in NUREG–1757.

Environmental Impacts of the Alternatives to the Proposed Action

Due to the largely administrative nature of the proposed action, its environmental impacts are small. Therefore, the only alternative the staff considered is the no-action alternative, under which the staff would deny the amendment request. This no-action alternative is not feasible because it conflicts with 10 CFR 30.36(d), requiring that decommissioning of byproduct material facilities be completed and approved by the NRC after licensed activities cease. The NRC's analysis of the Licensee's survey data confirmed that the Facility meets the requirements of 10 CFR 20.1402 for unrestricted release. Additionally, denying the amendment request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the no-action alternative are therefore similar, and the no-action alternative is accordingly not further considered.

Conclusion

The NRC staff has concluded that the proposed action is consistent with the NRC's unrestricted release criteria specified in 10 CFR 20.1402. Because the proposed action will not significantly impact the quality of the human environment, the NRC staff concludes that the proposed action is the preferred alternative.

Agencies and Persons Consulted

NRC provided a draft of this Environmental Assessment to the Missouri Department of Health and Senior Services for review on March 31, 2009. By response dated April 1, 2009, the State agreed with the conclusions of the EA, and otherwise provided no comments.

The NRC staff has determined that the proposed action is of a procedural nature, and will not affect any listed species or critical habitat. Therefore, no consultation is required under Section 7 of the Endangered Species Act. The NRC staff has also determined that the proposed action is not the type of activity that has the potential to cause effects on historic properties. Therefore, no consultation is required under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The NRC staff has prepared this EA in support of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a Finding of No Significant Impact is appropriate.

IV. Further Information

Documents related to this action, including the application for license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents related to this action are listed below, along with their ADAMS accession numbers.

1. Steven D. Struck, Curators of the University of Missouri, letter dated February 10, 2009 (ADAMS Accession No. ML091120616);

2. Title 10 Code of Federal Regulations, Part 20, Subpart E, ''Radiological Criteria for License Termination;''

3. Title 10 Code of Federal Regulations, Part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions;''

4. NUREG–1496, ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC–Licensed Nuclear Facilities'' (ML042310492, ML042320379, and ML042330385);

5. NUREG–1757, AConsolidated Decommissioning Guidance@ (ML020380209).

If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.* These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Lisle, Illinois, this 23rd day of April 2009.

For the Nuclear Regulatory Commission.

William G. Snell,

Acting Branch Chief, Materials Control, ISFSI, and Decommissioning Branch, Division of Nuclear Materials Safety, Region III.

[FR Doc. E9–9946 Filed 4–29–09; 8:45 am]

BILLING CODE 7590–01–P

PEACE CORPS

Notice of Public Use Form Review Request to the Office of Management and Budget

AGENCY: Peace Corps.

ACTION: Notice of public use form review request to the Office of Management and Budget. (Renewal with minimal text changes in the previously approved collection of OMB Control Number 0420–0005, Peace Corps Application.)

SUMMARY: Pursuant to the Paperwork Reduction Act of 1981 (44 U.S.C., Chapter 35), the Peace Corps has submitted to the Office of Management and Budget a request for renewal of information collection, OMB Control Number 0420–0005, the Peace Corps Volunteer Application. This is a renewal of an active OMB Control Number. The purpose of this notice is to allow for public comments on whether the proposed collection of information is necessary for the proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collections information, including the validity of the methodology and assumptions used; ways to enhance the quality, utility and the clarity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology. A copy of the proposed information collection form may be obtained from Ms. Dorothy Sullivan, Office of Volunteer Recruit and Selection, Operations Division, Recruitment Support Branch, Peace Corps, 1111 20th Street, NW., Room 3157, Washington, DC 20526. Ms. Sullivan can be contacted by telephone at 202–692–1873 or 800–424–8580 ext 1873 or e-mail at *dsullivan@peacecorps.gov*. Comments on the updated electronic version of this application should also be addressed to the attention of Ms. Sullivan and should be received on or before sixty days from June 29, 2009.

Need for and Use of this Information: This use of this application completed voluntarily by potential Peace Corps Volunteers in order to identify prospective applicants and process the applicants for Volunteer service. This information, which is gathered by an electronic on-line version of the previous used paper form, is used to determine qualifications and potential for placement of applicants, in fulfillment of the first goal of the Peace Corps as required by Congressional legislation and to enhance the Peace Corps Volunteer process.

Respondents: Potential Peace Corps Volunteers.

Respondent's Obligation to Reply: Voluntary.

Burden on the Public:

a. *Annual reporting burden:* 320,000 hours.

b. *Annual recordkeeping burden:* 0 hours.

c. *Estimated average burden per response:* 8 hours.

d. *Frequency of response:* One time.

e. *Estimated number of likely respondents:* 40,000.

f. *Estimated cost to respondents:* $0.

Dated: April 21, 2009.

Garry Stanberry,

Deputy Associate Director for Management.

[FR Doc. E9–9929 Filed 4–29–09; 8:45 am]

BILLING CODE P

PEACE CORPS

Notice of Information Collection for Review by OMB and Public Comment on Peace Corps' Intention To Conduct a Survey of and Focus Groups With Returned Peace Corps Volunteers

AGENCY: Peace Corps.

ACTION: Notice of information collection for review by OMB and public comment on Peace Corps' Intention to Conduct A Survey of and Focus Groups with Returned Peace Corps Volunteers.

SUMMARY: In accordance with the Paperwork Reduction Act, this notice invites the public to comment on the collection of information by the Peace Corps and gives notice of the Peace Corps' intention to request Office of Management and Budget (OMB) approval of the information collection. The Peace Corps' Office of Strategic Information, Research and Planning wishes to survey a sample of Returned Peace Corps Volunteers about their in-country experience, post-service transition, post-service education and career, and their third core goal activities of promoting a better understanding of other peoples on the part of Americans. In concert with the survey, the Peace Corps' Office of Strategic Information, Research and Planning also wishes to conduct focus groups with Returned Peace Corps Volunteers (RPCVs) about their post-service education and career. The data collected from both the survey and the focus groups will inform agency programming and help the Agency to assess, based on analysis of this updated and objective data, the extent of RPCVs' cross-cultural activities with their family, friends, and communities throughout the United States with whom RPCVs come in contact. The data will be used specifically by the Office of Domestic Programs to review the range and type of services and support rated as useful by RPCVs. The data will be used by the Peace Corps' Office of Strategic Information, Research and Planning to support Agency level reporting. Submit comments on or before sixty days from June 29, 2009.

ADDRESSES: Comments should be addressed to Susan Jenkins, Office of Strategic Information, Research and Planning, Peace Corps, 1111 20th Street, NW., Washington, DC 20526. Dr. Jenkins can be contacted by telephone at 202–692–1241 or e-mail at *SJenkin2@peacecorps.gov*. E-mail comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Susan Jenkins, Office of Strategic Information, Research and Planning, Peace Corps, 1111 20th Street, NW., Washington, DC 20526.

Need For and Use of This Information: The survey is the fourth in a series of Returned Peace Corps Volunteer surveys that have been administered approximately every ten years. This iteration will be a voluntary, Web-based survey to gather information about Volunteers' in-country experience, post-service transition, post-service education and career, and their third goal activities of promoting a better understanding of other peoples on the part of Americans. The data will be used to assess the range and type of services available to RPCVs, improve Peace Corps operations (e.g., recruitment for the Peace Corps Response program), and support Agency level performance reporting. Where possible, data will be compared across surveys to look for trends over time. Data will be collected from a simple random sample of Returned Peace Corps Volunteers sufficient to gather data with a 99 percent confidence level and a confidence interval of plus or minus 5.

The focus group questions focus on a subset of the topics asked about through the survey. Specifically, the focus groups will provide more detailed responses from RPCVs about the effect of the Peace Corps on their subsequent career choices and paths.

Respondents: Returned Peace Corps Volunteers.

Respondents' Obligation To Reply: Voluntary.

Burden on the Public:

a. *Annual reporting burden:* 894 (750 hours for the survey and 144 hours across the focus groups).

b. *Annual respondent recordkeeping burden:* 0 hours.

c. *Estimated average burden per response:* 30 minutes for survey respondents and 90 minutes for focus group participants.

d. *Frequency of response:* One time.

e. *Estimated number of respondents:* 1596 (1500 survey respondents and 96 focus group participants).

f. *Estimated cost to respondents:* $0.00/$0.00.

Dated: April 21, 2009.

Garry Stanberry,

Deputy Associate Director for Management.

[FR Doc. E9–9942 Filed 4–29–09; 8:45 am]

BILLING CODE 6051–01–P

RAILROAD RETIREMENT BOARD

Actuarial Advisory Committee With Respect to the Notice of Public Meeting

Notice is hereby given in accordance with Public Law 92–463 that the Actuarial Advisory Committee will hold a meeting on May 27, 2009, at 9:30 a.m. at the office of the Chief Actuary of the U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, on the conduct of the 24th Actuarial Valuation of the Railroad Retirement System. The agenda for this meeting will include a discussion of the results and presentation of the 24th Actuarial Valuation. The text and tables which constitute the Valuation will have been prepared in draft form for review by the Committee. It is expected that this will be the last meeting of the Committee before publication of the Valuation.

The meeting will be open to the public. Persons wishing to submit written statements or make oral presentations should address their communications or notices to the RRB Actuarial Advisory Committee, do Chief Actuary, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

Dated: April 23, 2009.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. E9–9829 Filed 4–29–09; 8:45 am]

BILLING CODE M

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11716 and #11717]

FLORIDA Disaster # FL–00039

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of FLORIDA (FEMA—1831—DR), dated 04/21/2009.

Incident: Severe Storms, Flooding, Tornadoes, and Straight-line Winds

Incident Period: 03/26/2009 and continuing.

Effective Date: 04/21/2009.

Physical Loan Application Deadline Date: 06/22/2009.

Economic Injury (EIDL) Loan Application Deadline Date: 01/21/2010.

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: Notice is hereby given that as a result of the President's major disaster declaration on 04/21/2009, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Bay, Calhoun, Gulf, Holmes, Jackson, Jefferson, Liberty, Okaloosa, Santa Rosa, Walton, Washington.

The Interest Rates are:

	Percent
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	4.500
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 117166 and for economic injury is 117176.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E9–9923 Filed 4–29–09; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11722 and #11723]

Georgia Disaster #GA–00021

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Georgia (FEMA–1833–DR), dated 04/23/2009.

Incident: Severe Storms, Flooding, Tornadoes, and Straight-line Winds.

Incident Period: 03/26/2009 and continuing.

Effective Date: 04/23/2009.

Physical Loan Application Deadline Date: 06/22/2009.

Economic Injury (EIDL) Loan Application Deadline Date: 01/23/2010.

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: Notice is hereby given that as a result of the President's major disaster declaration on 04/23/2009, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Berrien, Brantley, Brooks, Coffee, Colquitt, Decatur, Dougherty, Echols, Lanier, Lowndes, Miller, Mitchell, Pierce, Tift, Ware, Wheeler, Worth.

Contiguous Counties (Economic Injury Loans Only):

Georgia: Appling, Atkinson, Bacon, Baker, Ben Hill, Calhoun, Camden, Charlton, Clinch, Cook, Crisp, Dodge, Early, Glynn, Grady Irwin, Jeff Davis, Laurens, Lee, Montgomery, Seminole, Telfair, Terrell, Thomas, Treutlen, Turner, Wayne.

Florida: Baker, Columbia, Gadsden,

Hamilton, Jefferson, Madison.

The Interest Rates are:

	Percent
Homeowners With Credit Available Elsewhere	4.375
Homeowners Without Credit Available Elsewhere	2.187
Businesses With Credit Available Elsewhere	6.000
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	4.500
Businesses And Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 117226 and for economic injury is 117230.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Roger B. Garland,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E9–9958 Filed 4–29–09; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11724 and #11725]

Georgia Disaster #GA–00023

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Georgia (FEMA–1833–DR), dated 04/23/2009.

Incident: Severe Storms, Flooding, Tornadoes and Straight-line Winds.

Incident Period: 03/26/2009 and continuing.

EFFECTIVE DATE: 04/23/2009.

Physical Loan Application Deadline Date: 06/22/2009.

Economic Injury (EIDL) Loan Application Deadline Date: 01/23/2010.

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: Notice is hereby given that as a result of the President's major disaster declaration on 04/23/2009, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Appling, Atkinson, Bacon, Baker, Ben Hill, Berrien, Clinch, Coffee, Colquitt, Early, Echols, Grady, Lowndes, Mitchell, Montgomery, Pierce, Toombs, Ware.

The Interest Rates are:

	Percent
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	4.500
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 11724B and for economic injury is 11725B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Roger B. Garland,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E9–9956 Filed 4–29–09; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11720 and #11721]

Indiana Disaster #IN–00030

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Indiana (FEMA–1832–DR), dated 04/22/2009.

Incident: Severe Storms, Tornadoes, and Flooding.

Incident Period: 03/08/2009 Through 03/14/2009.

Effective Date: 04/22/2009.

Physical Loan Application Deadline Date: 06/22/2009.

Economic Injury (EIDL) Loan Application Deadline Date: 01/22/2010.

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: Notice is hereby given that as a result of the President's major disaster declaration on 04/22/2009, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Allen, Carroll, De Kalb, Fulton, Jasper, Kosciusko, La Porte, Lake, Marshall, Noble, Pulaski, White, Whitley.

Contiguous Counties (Economic Injury Loans Only): Indiana: Adams, Benton, Cass, Clinton, Elkhart, Howard, Huntington, Lagrange, Miami, Newton, Porter, St Joseph, Starke, Steuben, Tippecanoe, Wabash, Wells.

Illinois: Cook, Kankakee, Will.

Michigan: Berrien.

Ohio: Defiance, Paulding, Van Wert, Williams.

The Interest Rates are:

For Physical Damage:

	Percent
Homeowners With Credit Available Elsewhere	4.375
Homeowners Without Credit Available Elsewhere	2.187
Businesses With Credit Available Elsewhere	6.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	4.500
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

For Economic Injury:

	Percent
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 117206 and for economic injury is 117210.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Roger B. Garland,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E9–9960 Filed 4–29–09; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11705 and #11706]

Minnesota Disaster Number MN–00021

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 Minnesota (FEMA–1830–DR), dated 04/09/2009.

Incident: Severe storms and flooding.

Incident Period: 03/16/2009 and continuing.

Effective Date: 04/22/2009.

Physical Loan Application Deadline Date: 06/08/2009.

Economic Injury (EIDL) Loan Application Deadline Date: 01/09/2010.

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 Minnesota, dated 04/09/2009, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Becker, Beltrami, Chippewa, Clearwater, Douglas, Hubbard, Lac Qui Parle, Lake Of The Woods, Pope, Stevens, Swift, Yellow Medicine, And The White Earth Tribal Nation.

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. E9–9961 Filed 4–29–09; 8:45 am]

BILLING CODE 8025–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Pax Clean Energy, Inc.; Order of Suspension of Trading

April 28, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pax Clean Energy, Inc., which are quoted on the OTC Bulletin Board and on the Pink Sheets operated by Pink Sheets OTC Markets Inc. under the ticker symbol PXCE. Questions have been raised regarding the accuracy of publicly disseminated information concerning, among other things: (1) An acquisition by the company; (2) the value of the company after the completion of the acquisition; and (3) the company's current and future financial condition.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above listed company is suspended for the period from 9:30 a.m. EDT, April 28, 2009 through 11:59 p.m. EDT, on May 11, 2009.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–10035 Filed 4–28–09; 4:15 pm]

BILLING CODE 8010–01–P

DEPARTMENT OF STATE

[Public Notice 6594]

Bureau of Educational and Cultural Affairs; Office of Citizen Exchanges

Notice: Amendment to original Request for Grant Proposals (RFGP) (Congressionally Mandated—One-Time Grants Program—Competition B—Professional, Cultural and Youth One-Time Grants Program—Reference Number ECA/PE/C/09—One-time-Comp. B).

Summary: The United States Department of State, Bureau of Educational and Cultural Affairs, announces revisions to the original RFGP announced in the Federal Register on Thursday, April 16, 2009 (Federal Register Volume 74, Number 72):

(1) Due to an omission in the original RFGP, referenced above, Europe has been added as a Geographic Region and Italy has been added as the *only eligible country* in that Geographic Region, under the ''Emerging Cultural Leaders Program.''

(2) The deadline for proposals targeting Italy under the ''Emerging Cultural Leaders Program'' has been extended to May 28, 2009.

(3) Proposals targeting Italy under the ''Emerging Cultural Leaders Program'' MUST only be submitted in hard-copy as outlined in IV.3f.1 ''Submitting Printed Applications'' section of the RFGP referenced above.

(4) The original proposal deadline of May 14, 2009 applies to all other proposals submitted under this competition. There are no exceptions, as stated in the original RFGP referenced above.

(5) All other terms and conditions of the original RFGP remain the same.

Additional Information

As stated in the original RFGP, interested organizations should contact Jill Staggs, Program Officer at 202–203–7500 or by e-mail at *StaggsJJ@state.gov* for additional information regarding the Emerging Cultural Leaders Program prior to the application deadline.

Dated: April 23, 2009.

C. Miller Crouch,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E9–9830 Filed 4–29–09; 8:45 am]

BILLING CODE 4710–11–P

DEPARTMENT OF STATE

[Public Notice 6593]

Bureau of Educational and Cultural Affairs (ECA)

Request for Grant Proposals: English Access Microscholarship Program.

Announcement Type: New Cooperative Agreement.

Funding Opportunity Number: ECA/A/L 09–02.

Catalog of Federal Domestic Assistance Number: 00.000.

Key Dates:

Application Deadline: June 15, 2009.

Executive Summary: The Office of English Language Programs announces an open competition for the administration of the English Access Microscholarship Program (Access Program), which provides a foundation of English language skills to bright 14- to 18-year-olds from disadvantaged sectors overseas through in-country after school classes and intensive summer learning activities. The microscholarships fund in-country study for classes close to the students' homes. The Cooperative Agreement recipient's role is to disburse funds to in-country educational service providers selected by U.S. Embassies. These funds will support in-country educational service providers' activities such as English language programming for Access students and in-service teacher training for Access directors and teachers. In addition, the recipient will provide at least two U.S. summer

workshops, one for selected Access Program directors and teachers and the other for selected Access students. In addition to providing quality instruction in the English language to Access students and the latest methodology to Access directors and teachers, workshops must include content that gives the participants insights into, and an appreciation for, U.S. culture and democratic values.

I. Funding Opportunity Description

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Purpose: The English Access Microscholarship Program provides a foundation of English language skills to bright 14- to 18-year-olds from disadvantaged sectors through after school classes and intensive summer learning activities. The program also gives participants the opportunity to gain an appreciation for U.S. culture and democratic values, increase their ability to participate successfully in the socio-economic development of their countries, and improve their ability to compete to participate in U.S. educational and exchange programs. The Bureau of Educational and Cultural Affairs' Office of English Language Programs (ECA/A/L), based on input from U.S. Embassies' Public Affairs sections, designates the schools or other educational service providers that conduct the classes and in-service teacher training. (**Note:** Throughout this Request for Grant Proposals, these schools, NGOs and other partners will be referred to as ''in-country educational service providers.'') The in-country educational service providers, in collaboration with the U.S. Embassies, select the students. The microscholarships fund in-country study for classes close to the students' homes. English Access Microscholarships do not support study in the United States. Because of the Program's worldwide scope, the method of instruction, curriculum, textbooks, tests, hours of instruction, cost per student, and other program elements may vary considerably from country to country, and sometimes within a single country.

Background: In FY2006, the Bureau of Educational and Cultural Affairs' Office of English Language Programs assumed overall management of the Department's English Access Microscholarship Program. The Program was launched in 2004 as a pilot program in countries of the Middle East and North Africa. The program has expanded to become a key foundation element in the Bureau's continuum of exchanges to reach younger and more diverse audiences worldwide. Since its inception in 2004, approximately 44,000 students in more than 55 countries have participated in the Access Program. The Bureau anticipates providing English Access Microscholarships to approximately 10,000 students worldwide under this award. The current participating countries are: Afghanistan, Albania, Algeria, Argentina, Azerbaijan, Bahrain, Bangladesh, Benin, Bosnia and Herzegovina, Brazil, Burkina Faso, Burma, Cambodia, Chad, Chile, China, Côte d'Ivoire, Cyprus, Democratic Republic of the Congo, Ethiopia, Egypt, India, Indonesia, Israel, Jordan, Kazakhstan, Kenya, Kosovo, Kuwait, Kyrgyzstan, Lebanon, Libya, Malaysia, Mauritania, Mexico, Mongolia, Morocco, Mozambique, Niger, Nigeria, Oman, Pakistan, Peru, Philippines, Russia, Saudi Arabia, Senegal, Sri Lanka, South Africa, Syria, Tajikistan, Tanzania, Thailand, Togo, Tunisia, Turkey, Turkmenistan, United Arab Emirates, Uruguay, Uzbekistan, West Bank/Gaza, and Yemen.

Program Goals: In addition to providing quality instruction in the English language, all courses in which Access Program students are enrolled are required to have adequate and appropriate content to give the students insights into, and an appreciation for, U.S. culture and democratic values. Another important goal of the English Access Microscholarship Program is to provide students with sufficient English language skills to apply and compete successfully for ECA exchange programs or other study opportunities for young people to the U.S. Access students also acquire sufficient language skills to participate in ECA and embassy-sponsored alumni activities. U.S. Embassies' Public Affairs sections will work closely with Regional English Language Officers, English Language Fellows and Specialists to familiarize Access directors and teachers with U.S. student-centered teaching methods, various materials illustrating U.S. society, culture and diversity, and the role of materials in the language classroom.

Cooperative Agreement Recipient's Responsibilities: The cooperative agreement recipient (hereafter referred to as recipient organization) that is awarded the English Access Microscholarship Program from the Bureau will be responsible for the following activities:

1. Disbursing funds to in-country educational service providers in each of the participating countries. The in-country educational service providers are schools, NGOs or other educational providers selected by U.S. Embassies to enroll the scholarship students. The providers may also provide in-service teacher training. The amounts to be disbursed, as well as the in-country educational service providers, are determined by ECA/A/L in consultation with U.S. Embassies and the State Department's Regional Bureaus.

Note: If the recipient organization is also selected by a U.S. Embassy to be an in-country educational service provider, strict internal financial and management procedures must be established to ensure that the two roles are distinct. For example, separate accounts must be established to preclude co-mingling of funds, separate support staff must be maintained, etc.

The recipient organization makes numerous disbursements to each in-country educational service provider per year. ECA/A/L will authorize the disbursements as necessary based on program requirements. Individual disbursements to in-country educational service providers will vary in size depending on the size of the Program in each country, ranging from several thousand dollars to several hundred thousand dollars per in-country educational service provider.

Additionally, the recipient organization, under the close supervision of ECA/A/L, will:

2. Plan, conduct, and fund at least one workshop (approximately two weeks or more in duration) in the U.S. for approximately 12–25 teachers and directors of the Program, chosen by ECA/A/L from nominations by U.S. Embassies. The workshop will focus on the latest EFL methodology, linguistic enhancement, educational leadership, cultural interchange and ''best practices'' in the classroom. In addition participants will develop a project to implement with Access students in their countries.

3. Plan, conduct, and fund at least one workshop (approximately two weeks or more in duration) in the U.S. for approximately 20–25 English Access Microscholarship Program students, chosen by ECA/A/L from nominations by U.S. Embassies. The workshop will focus on giving the students an immersion experience in U.S. culture and the English language and will entail travel to several cities in diverse regions of the United States.

4. Issue DS–2019 forms to participants in the workshops.

5. Ship books and materials to the providers in the field as required. ECA/A/L will authorize the shipments as necessary based on program requirements.

6. Draft and clear all public advertisements, newsletters, and Web sites with ECA/A/L before development and dissemination to ensure proper identification of the U.S. Government and ECA role.

Cooperative Agreement: In a Cooperative Agreement, ECA/A/L is substantially involved in the program activities, above and beyond routine grant monitoring. ECA/A/L activities and responsibilities for this Program are as follows:

1. Selects, based on input from U.S. Embassies and the State Department's Regional Bureaus, the in-country educational service providers (schools, NGOs, etc.) that will provide English language instruction to the Access program students and implement in-service teacher training;

2. Selects, based on input from U.S. Embassies, the State Department's Regional Bureaus, and the in-country educational service providers, the students who receive the microscholarships;

3. Determines, based on input from U.S. Embassies and the State Department's Regional Bureaus, the amount and timing of financial disbursements by the recipient organization to the in-country educational service providers;

4. Serves, except for routine disbursements and other transactions approved in advance by ECA/A/L, as the recipient organization's primary point of contact and intermediary with the in-country educational service providers and teachers involved in the Program. Similarly, ECA/A/L serves as the primary point of contact and intermediary with the U.S. Embassies and students involved in the Program.

In this Cooperative Agreement, U.S. Embassies are also substantially involved in the program activities, above and beyond routine grant monitoring. U.S. Embassies' activities and responsibilities for this Program are as follows:

1. Collaborates with in-country educational service providers in the student selection process;

2. Selects the in-country educational service providers (schools, NGOs, universities, etc.) that will provide English language instruction to the Access Program students;

3. Participates in enhancement activities for Access students, when possible;

4. Proposes participants to ECA/A/L for the U.S. workshops;

5. Conducts regular review of the in-country educational service providers' program and accounts;

6. Provides certificates signed by the U.S. Ambassador to the students at the beginning and end of the Program;

7. Conducts regular review of the in-country educational service providers' program and accounts; and

8. Proposes in-service training for Access directors and teachers.

II. Award Information

Type of Award: Cooperative Agreement. ECA's level of involvement in this program is listed under section I above.

Fiscal Year Funds: FY2009.

Approximate Total Funding: The Cooperative Agreement may be up to $19,289,970. Approximately $1.25 million comes from the FY2008/2009 Economic Support Funds for Central America (Merida Initiative) transferred to ECA for obligation in FY2009, an additional $2,202,970 in recoveries, and $15.837 million comes from the FY2009 ECA Exchange Appropriation to implement the English Access Microscholarship Program.

Approximate Number of Awards: 1.

Approximate Average Award: The cooperative agreement award may be up to $19,289,970.

Floor of Award Range:

Ceiling of Award Range:

Anticipated Award Date: September 1, 2009.

Anticipated Project Completion Date: December 31, 2012.

Additional Information: Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is ECA's intent to renew this cooperative agreement for two additional fiscal years, before openly competing it again.

III. Eligibility Information

III.1. Eligible Applicants

Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. Cost Sharing or Matching Funds

The Bureau's goal is to maximize the number of microscholarships being made available and expects that approximately 90 (ninety) percent *or more* of the funds provided through this cooperative agreement will be used for funding of microscholarships and for funding of other mandatory program elements (workshops, etc.) described under Section 1 of this RFGP. When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in this RFGP and later included in an approved agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal Government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements

(a) Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA anticipates making one award pending the availability of funds, in an amount up to $19,289,970 to support program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1 Contact Information to Request an Application Package

Please contact the Bureau of Educational and Cultural Affairs, Office of English Language Programs, ECA/A/L, Room 304, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, Telephone: 202–453–8855, Fax: 202–453–8858, and *accessprogram@state.gov* to request a Solicitation Package.

Please refer to the Funding Opportunity Number ECA/A/L 09–02 located at the top of this announcement when making your request. Alternatively, an electronic application package may be obtained from grants.gov. Please see section IV.3f for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document which consists of required application forms, and standard guidelines for proposal preparation.

It also contains the Project Objectives, Goals and Implementation (POGI) document, which provides specific information, award criteria and budget instructions tailored to this competition.

Please specify Bureau Program Officer Melissa Fernandez and refer to the Funding Opportunity Number ECA/A/L 09–02 located at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package via Internet

The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/grants/open2.html,* or from the Grants.gov Web site at *http://www.grants.gov*.

Please read all information before downloading.

IV.3. Content and Form of Submission

Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under IV.3f. ''Application Deadline and Methods of Submission'' section below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document and the Project Objectives, Goals and Implementation (POGI) document for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application. **Please note:** Effective January 7, 2009, all applicants for ECA federal assistance awards must include in their application the names of directors and/or senior executives (current officers, trustees, and key employees, regardless of amount of compensation). In fulfilling this requirement, applicants must submit information in one of the following ways:

(1) Those who file Internal Revenue Service Form 990, ''Return of Organization Exempt From Income Tax,'' must include a copy of relevant portions of this form.

(2) Those who do not file IRS Form 990 must submit information above in the format of their choice.

In addition to final program reporting requirements, recipient organizations will also be required to submit a one-page document, derived from their program reports, listing and describing their grant activities. For award recipients, the names of directors and/or senior executives (current officers, trustees, and key employees), as well as the one-page description of grant activities, will be transmitted by the State Department to OMB, along with other information required by the Federal Funding Accountability and Transparency Act (FFATA), and will be made available to the public by the Office of Management and Budget on its USASpending.gov Web site as part of ECA's FFATA reporting requirements.

If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1 Adherence to All Regulations Governing the J Visa

The Bureau of Educational and Cultural Affairs places critically important emphases on the security and proper administration of the Exchange Visitor (J visa) Programs and adherence by award recipients and sponsors to all regulations governing the J visa. Therefore, proposals should demonstrate the applicant's capacity to meet all requirements governing the administration of the Exchange Visitor Programs as set forth in 22 CFR 62, including the oversight of Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, recordkeeping, reporting and other requirements. The award recipient will be responsible for issuing DS–2019 forms to participants in this program. The Office of English Language Programs (ECA/A/L) will assist in issuing DS–2019s as necessary.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from:

United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD—SA–44, Room 734, 301 4th Street, SW. Washington, DC 20547, Telephone: (202) 203–5029, FAX: (202) 453–8640.

Please refer to Solicitation Package for further information.

IV.3d.2 Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described

above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation

Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the recipient organization will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes. Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes,* in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. Participant satisfaction with the program and exchange experience.

2. Participant learning, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

3. Participant behavior, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.

4. Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (*i.e.,* surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Recipient organizations will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit SF–424A—''Budget Information—Non-Construction Programs'' along with a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. Application Deadline and Methods of Submission

Application Deadline Date: June 15, 2009.

Reference Number: ECA/A/L 09–02.

Methods of Submission:

Applications may be submitted in one of two ways:

(1) In hard-copy, via a nationally recognized overnight delivery service (*i.e.,* Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

(2) Electronically through *http://www.grants.gov*.

Please note: ECA strongly encourages organizations interested in applying for this competition to submit printed, hard copy applications as outlined in section IV.3f.1., below rather than submitting electronically through Grants.gov. This recommendation is being made as a result of the anticipated high volume of grant proposals that will be submitted via the Grants.gov webportal as part of the Recovery Act stimulus package. As stated in this RFGP, ECA bears no responsibility for data errors resulting from transmission or conversion processes for proposals submitted via Grants.gov

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1 Submitting Printed Applications

Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will *not* notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original and 15 copies of the application should be sent to:

U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/A/L 09–02, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Applicants submitting hard-copy applications must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal in text (.txt) or Microsoft Word format on a PC-formatted disk. The Bureau will provide these files electronically to the appropriate Public Affairs Section(s) at the U.S. embassy(ies) for review.

IV.3f.2 Submitting Electronic Applications

Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the ''Find'' portion of the system.

Please Note: ECA strongly encourages organizations interested in applying for this competition to submit printed, hard copy applications as outlined in section IV.3f.1. above, rather than submitting electronically through *Grants.gov.* This recommendation is being made as a result of the anticipated high volume of grant proposals that will be submitted via the *Grants.gov* webportal as part of the Recovery Act stimulus package. As stated in this RFGP, ECA bears no responsibility for data errors resulting from transmission or conversion processes for proposals submitted via *Grants.gov.*

Please follow the instructions available in the 'Get Started' portion of the site (*http://www.grants.gov/GetStarted*).

Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov.

Once registered, the amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your internet connection. In addition, validation of an electronic submission via Grants.gov can take up to two business days.

Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.

The Grants.gov Web site includes extensive information on all phases/aspects of the Grants.gov process, including an extensive section on frequently asked questions, located under the ''For Applicants'' section of the Web site. ECA strongly recommends that all potential applicants review thoroughly the Grants.gov Web site, well in advance of submitting a proposal through the Grants.gov system. ECA bears no responsibility for data errors resulting from transmission or conversion processes.

Direct all questions regarding Grants.gov registration and submission to:

Grants.gov Customer Support, Contact Center Phone: 800–518–4726, Business Hours: Monday–Friday, 7 a.m.–9 p.m. Eastern Time, E-mail: *support@grants.gov.*

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. *There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the Grants.gov system, and will be technically ineligible.*

Please refer to the Grants.gov Web site, for definitions of various ''application statuses'' and the difference between a submission receipt and a submission validation. Applicants will receive a validation e-mail from Grants.gov upon the successful submission of an application. Again, validation of an electronic submission via Grants.gov can take up to two business days. *Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.* ECA will *not* notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov web portal to ensure that proposals have been received by Grants.gov in their entirety, and ECA bears no responsibility for data errors resulting from transmission or conversion processes.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance award cooperative agreements resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of the program idea:* Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission.

2. *Program planning:* Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

3. *Ability to achieve program objectives and institutional capacity:* Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan. Proposed personnel and institutional resources should be adequate and appropriate to achieve the Program or project's goals

4. *Institution's Record/Ability:* Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau awards (grants or cooperative agreements) as determined by Bureau Grants Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

5. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

6. *Project Evaluation:* Proposals should include a plan to evaluate the

activity's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives is recommended.

7. *Cost-effectiveness and Cost-Sharing:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

VI. Award Administration Information

VI.1a. Award Notices

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive a Federal Assistance Award (FAA) from the Bureau's Grants Office. The FAA and the original proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The FAA will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.1b The following additional requirements apply to this project: All awards made under this competition must be executed according to all relevant U.S. laws and policies regarding assistance to the Palestinian Authority, and to the West Bank and Gaza. Organizations must consult with relevant Public Affairs Offices before entering into any formal arrangements or agreements with Palestinian organizations or institutions.

Note: To assure that planning for the inclusion of the Palestinian Authority complies with requirements, please contact Program Officer Melissa Fernandez 202–453–8855 and *accessprogram@state.gov* for additional information.

Special Provision for Performance in a Designated Combat Area (Currently Iraq and Afghanistan) (December 2008)

All Recipient personnel deploying to areas of combat operations, as designated by the Secretary of Defense (currently Iraq and Afghanistan), under assistance awards over $100,000 or performance over 14 days must register in the Department of Defense maintained Synchronized Pre-deployment and Operational Tracker (SPOT) system. Recipients of federal assistance awards shall register in SPOT before deployment, or if already in the designated operational area, register upon becoming an employee under the assistance award, and maintain current data in SPOT. Information on how to register in SPOT will be available from your Grants Officer or Grants Officer Representative during the final negotiation and approval stages in the federal assistance awards process. Recipients of federal assistance awards are advised that adherence to this policy and procedure will be a requirement of all final federal assistance awards issued by ECA.

Recipient performance may require the use of armed private security personnel. To the extent that such private security contractors (PSCs) are required, grantees are required to ensure they adhere to Chief of Mission (COM) policies and procedures regarding the operation, oversight, and accountability of PSCs.

VI.2 Administrative and National Policy Requirements

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments''.

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information: *http://www.whitehouse.gov/omb/grants* and *http://fa.statebuy.state.gov*.

VI.3. Reporting Requirements

You must provide ECA with a hard copy of the original plus 10 copies of the following reports:

(1) A final program and financial report no more than 90 days after the expiration of the award;

(2) A concise, one-page final program report summarizing program outcomes no more than 90 days after the expiration of the award. This one-page report will be transmitted to OMB, and be made available to the public via OMB's USAspending.gov Web site—as part of ECA's Federal Funding Accountability and Transparency Act (FFATA) reporting requirements.

(3) A SF–PPR, ''Performance Progress Report'' Cover Sheet with all program reports.

(4) Quarterly program and financial reports

Award recipients will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.)

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VI.4. Optional Program Data Requirements

Award recipients will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau as required. As a minimum, the data must include the following:

(1) Name, address, contact information and biographic sketch of all persons who travel internationally on funds provided by the agreement or who benefit from the award funding but do not travel.

(2) Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Final schedules for in-country and U.S. activities must be received by the ECA Program Officer at least one week prior to the official opening of the activity.

VII. Agency Contacts

For questions about this announcement, contact: Melissa Fernandez, Bureau of Educational and Cultural Affairs, Office of English Language Programs, ECA/A/L, Room 304, ECA/A/L 09–02, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, telephone: 202–

453–8855, fax: 202–453–8858, and e-mail: *accessprogram@state.gov*.

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/A/L 09–02. Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: April 23, 2009.

C. Miller Crouch,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E9–9811 Filed 4–29–09; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 6597]

Culturally Significant Objects Imported for Exhibition Determinations: ''Dove/O'Keeffe: Circles of Influence''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''Dove/O'Keeffe: Circles of Influence,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Sterling and Francine Clark Art Institute, Williamstown, MA, from on or about June 7, 2009, until on or about September 7, 2009, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453–8048). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: April 15, 2009.

C. Miller Crouch,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E9–9971 Filed 4–29–09; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 6596]

Culturally Significant Object Imported for Exhibition Determinations: ''Telescopes: Through the Looking Glass''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the object to be included in the exhibition ''Telescopes: Through the Looking Glass,'' imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit object at the Adler Planetarium, Chicago, IL, from on or about May 22, 2009, until on or about December 31, 2009, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a description of the exhibit object, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453–8048). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: April 21, 2009.

C. Miller Crouch.

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E9–9970 Filed 4–29–09; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 6595]

Shipping Coordinating Committee; Notice of Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 9:30 a.m. on Wednesday, May 20, 2009, in Room 2415 of the United States Coast Guard Headquarters Building, 2100 Second Street, SW., Washington, DC 20593. The primary purpose of the meeting is to prepare for the eighty-sixth session of the International Maritime Organization (IMO) Marine Safety Committee (MSC) to be held at the IMO's London headquarters from May 27 to June 5, 2009. The primary matters to be considered at MSC 86 include:

—Decisions of other IMO bodies;
—Consideration and adoption of amendments to mandatory instruments;
—Measures to enhance maritime security;
—Goal-based new ship construction standards;
—Long range identification and tracking (LRIT)-related matters;
—Dangerous goods, solid cargoes and containers (report of the 13th session of the Sub-Committee);
—Radiocommunications and search and rescue (report of the 13th session of the Sub-Committee);
—Training and watchkeeping (report of the 40th session of the Sub-Committee);
—Fire protection (report of the 53rd session of the Sub-Committee);
—Bulk liquids and gases (urgent matters emanating from the 13th session of the Sub-Committee);
—Ship design and equipment (urgent matters emanating from the 52nd session of the Sub-Committee);
—Flag State implementation (urgent matters emanating from the 17th session of the Sub-Committee);
—Technical assistance sub-programme in maritime safety and security;

—Capacity-building for the implementation of new measures;
—Role of the human element;
—Formal safety assessment;
—Piracy and armed robbery against ships;
—General cargo ship safety;
—Implementation of instruments and related matters;
—Relations with other organizations;
—Application of the Committee's Guidelines;
—Work programme; and
—Election of MSC's Chairman and Vice-Chairman for 2010.

Members of the public may attend the May 20th meeting of the SHC up to the seating capacity of the room. Please note that due to security considerations, two valid, government-issued photo identification documents must be presented to gain entrance to the building. The Coast Guard Headquarters building is accessible by taxi and privately owned conveyance. Please note that parking in the vicinity of the building is extremely limited and that public transportation is not generally available.

To facilitate attendance to this meeting, those who plan to attend should contact the meeting coordinator, LCDR Jason Smith—not later than 4 p.m. on Friday, May 15, 2009—by e-mail at *jason.e.smith2@uscg.mil*; by phone at (202) 372–1376; by fax at (202) 372–1925; or by writing to Commandant (CG–5212), U.S. Coast Guard Headquarters, 2100 2nd Street, SW., Room 1308, Washington, DC 20593–0001. Additional information regarding this and other SHC public meetings and associated IMO meetings may be found at: *http://www.uscg.mil/hq/cg5/imo*.

Dated: April 23, 2009.

Mark Skolnicki,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. E9–9969 Filed 4–29–09; 8:45 am]

BILLING CODE 4710–09–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice With Respect to List of Countries Denying Fair Market Opportunities for Government-Funded Airport Construction Projects

AGENCY: Office of the United States Trade Representative.

ACTION: Notice with respect to a list of countries denying fair market opportunities for products, suppliers or bidders of the United States in airport construction projects.

DATES: *Effective Date:* Date of Publication.

FOR FURTHER INFORMATION CONTACT: Jean Heilman Grier, Senior Procurement Negotiator, Office of the United States Trade Representative, (202) 395–9476, or Maria Pagan, Associate General Counsel, Office of the United States Trade Representative, (202) 395–9626.

SUMMARY: Pursuant to section 533 of the Airport and Airway Improvement Act of 1982, as amended (49 U.S.C. 50104), the United States Trade Representative (USTR) has determined not to list any countries as denying fair market opportunities for U.S. products, suppliers, or bidders in foreign government-funded airport construction projects.

SUPPLEMENTARY INFORMATION: Section 533 of the Airport and Airway Improvement Act of 1982, as amended by section 115 of the Airport and Airway Safety and Capacity Expansion Act of 1987, Public Law 100–223 (codified at 49 U.S.C. 50104) (''the Act''), requires USTR to decide whether any foreign countries have denied fair market opportunities to U.S. products, suppliers, or bidders in connection with airport construction projects of $500,000 or more that are funded in whole or in part by the governments of such countries. The list of such countries must be published in the **Federal Register.** USTR has not received any complaints or other information that indicates that U.S. products, suppliers, or bidders are being denied fair market opportunities in such airport construction projects. As a consequence, for purposes of the Act, USTR has decided not to list any countries as denying fair market opportunities for U.S. products, suppliers, or bidders in foreign government-funded airport construction projects.

Ron Kirk,

United States Trade Representative.

[FR Doc. E9–9899 Filed 4–29–09; 8:45 am]

BILLING CODE 3190–W9–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending April 18, 2009

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (*See* 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2009–0088.

Date Filed: April 13, 2009.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2009.

Description: Application of Prince Edward Air Ltd. d/b/a PE Air requesting an exemption and a foreign air carrier permit to engage in scheduled foreign air transportation between Canada and the United States.

Docket Number: DOT–OST–2006–24629.

Date Filed: April 17, 2009.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 8, 2009.

Description: Application of Yangtze River Express Airlines Co., Ltd. (''Yangtze'') requesting an amendment to its foreign air carrier permit to allow Yangtze to engage in scheduled air transportation of property and mail between Shanghai, People's Republic of China (PVG), on the one hand, and Dallas Fort Worth, Texas (DFW) on the other hand, and to co-terminalize DFW with its existing authority for Anchorage, Alaska; Boston, Massachusetts; Los Angeles, California; and New York, New York granted previously by the Department; and additionally Yangtze requests an exemption to permit it to engage in scheduled air transportation of property and mail to the extent necessary so that it may exercise all of the rights requested in this application prior to the issuance of an amended foreign air carrier permit.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E9–9922 Filed 4–29–09; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on December 3. 2008, vol. 73, no. 233. pages 73687–73688. Standards have been established for the operation of agricultural aircraft and for the dispensing of chemicals, pesticides and toxic substances. Information collected shows applicant compliance and eligibility for certification by the FAA.

DATES: Please submit comments by June 1, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Agricultural Aircraft Operations.

Type of Request: Extension without change of a currently approved collection.

OMB Control Number: 2120–0049.

Form(s): 8710–3.

Affected Public: An estimated 3,980 Respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 3.5 hours per response.

Estimated Annual Burden Hours: An estimated 14,037 hours annually.

Abstract: Standards have been established for the operation of agricultural aircraft and for the dispensing of chemicals, pesticides and toxic substances. Information collected shows applicant compliance and eligibility for certification by the FAA.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_suhmnission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library. Room 10102, 725 17th Street, NW., Washington, DC 20503.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected: and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC on April 23, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E9–9765 Filed 4–29–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Final and Gila Counties, AZ

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Pinal and Gila counties, Arizona.

FOR FURTHER INFORMATION CONTACT: Kenneth Davis, Senior Engineering Manager for Operations, Federal Highway Administration, Arizona Division Office, 4000 North Central Avenue, Suite 1500, Phoenix, Arizona 85012, Telephone: (602) 382–8970, Fax: (602) 382–8998, e-mail: *Ken.davis@fhwa.dot.gov;* or

Mary Frye, Environmental Coordinator, Federal Highway Administration, Arizona Division Office, 4000 North Central Avenue, Suite 1500, Phoenix, Arizona 85012, Telephone: (602) 382–8979, Fax: (602) 382–8998, e-mail: *Mary.Frye@thwa.dot.gov.*

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Arizona Department of Transportation (ADOT), will prepare a National Environmental Policy Act (NEPA) Environmental Impact Statement (EIS) on a proposal to improve and/or realign US Highway (US) 60 in Pinal and Gila counties, Arizona from west of Superior at approximately milepost (MP) 222.6 to east of Globe at approximately MP 258.0. The proposed project evaluation will include, but not be limited to potential impacts to residential and commercial development, cultural resources, mining, Threatened and Endangered Species, jurisdictional waters of the U.S., scenic resources, air and noise quality, hazardous materials, and secondary and cumulative impacts.

Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand. Alternatives under consideration include (1) taking no action, (2) improvements to the existing US 60, and (3) at least 18 different segment alignments for potential relocation and development of the highway north and south of the existing US 60 on lands managed by the Tonto National Forest (TNF), Bureau of Land Management (BLM), as well as on private lands. The TNF and BLM have been invited to accept the roles of Cooperating Agency for the study in addition to the U.S. Army Corps of Engineers.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. Formal NEPA agency and public scoping meetings, a series of public information meetings and public hearings will be held.

Public notice will be given of the time and place of the meetings and hearings. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Kenneth Davis,

Senior Engineering Manager for Operations, Federal Highway Administration, Arizona Division Office, Phoenix, Arizona.

[FR Doc. E9–9732 Filed 4–29–09; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket Number: FTA–2008–0054]

Notice of Availability of Final Guidance on the Application of 49 U.S.C. 5324(c), Railroad Corridor Preservation

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of availability of guidance.

SUMMARY: By this notice the FTA announces the availability of final guidance on the application of a provision of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) concerning the acquisition of railroad right-of-way for transit projects. The guidance explains FTA's interpretation of the provision, which allows the acquisition of pre-existing railroad right-of-way, under certain conditions, before the completion of the environmental review for a transit project that would use the right-of-way. On December 22, 2008, FTA announced in the **Federal Register** the availability of the draft guidance and requested public comment. Several comments were received, and responses thereto are presented in this notice. The final guidance is available on the U.S. Government electronic docket site and on the FTA Web site.

DATES: This final guidance is effective April 30, 2009.

ADDRESSES: The final guidance is available in the U.S. Government's electronic docket site at *http://www.regulations.gov* under docket number FTA–2008–0054 and on the FTA Web site at *http://www.fta.dot.gov* under ''Planning and Environment.''

FOR FURTHER INFORMATION CONTACT: Joseph Ossi, Office of Planning and Environment (TPE–30), 202–366–1613, or Christopher Van Wyk, Office of Chief Counsel (TCC–30), 202–366–1733, Federal Transit Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

Section 3024 of SAFETEA–LU added a new provision at 49 U.S.C. 5324(c) that allows a grant applicant, under conditions that may be specified by the Secretary of Transportation (the ''Secretary''), to acquire existing railroad right-of-way prior to the completion of the environmental review of any transit project that will eventually use that right-of-way. Pursuant to authority delegated by the Secretary, FTA has developed guidance that would (1) specify the conditions under which this provision may be used and (2) give guidance on applying that provision to specific situations.

Comments

On December 22, 2008, FTA announced in the **Federal Register** (73 FR 78424) the availability of the draft guidance and requested public comment. The notice of availability of the draft guidance contained a deadline of January 21, 2009, for public comment, but due to delays in posting the draft guidance to the docket at *http://www.regulations.gov* and to FTA's Web site, FTA posted a notice to the docket on January 2, 2009, stating that all comments submitted by February 1, 2009, will be treated as timely and that FTA would consider comments received after that date to the extent possible. As of the date of issuance of this notice of availability of the final guidance, all comments received in the docket have been considered. Comments were received from five transit agencies and one unaffiliated individual. The comments received, FTA's responses, and the resulting changes made in the guidance are discussed below.

Some commenters pointed out that the draft guidance was not posted in a timely manner, and, as previously stated, FTA responded by extending the comment period. Notice of the extension was included in the docket.

A commenter suggested that FTA change its environmental impact and related procedures in Title 23 of the Code of Federal Regulations at part 771 (23 CFR part 771) to provide a categorical exclusion for the acquisition of any real property ''in advance of any project for which NEPA clearance will later be sought'' as long as the real property is ''not subject to changed use at the time of acquisition.'' This suggestion is beyond the scope of this action which is to provide guidance on the application of the provision at 49 U.S.C. 5324(c) on railroad corridor preservation. FTA notes that a final rulemaking published by FTA in the **Federal Register** on March 24, 2009 (74 FR 12518) did in fact create a categorical exclusion for the acquisition of railroad ROW consistent with 49 U.S.C. 5324(c). This revised environmental rule at 23 CFR part 771 is effective April 23, 2009.

One commenter expressed concern that the guidance applies only to pre-existing railroad ROW and not to all ROW needed for a future transit project. This commenter suggested that FTA's approach would ''tip'' the government's hand on current projects being explored, give landowners an opportunity to change their property in some way, and increase its value prior to its acquisition for the project. FTA decided not to implement this comment because the statute explicitly applies only to railroad ROW. Furthermore, if a property owner were to attempt to initiate some form of development on the property in order to ''change the property for economic gain'' in anticipation of an FTA-assisted project, FTA has the authority to approve a protective acquisition of that property in accordance with 23 CFR 771.117(d)(12). The provision on railroad ROW preservation at 49 U.S.C. 5324(c) does not change the existing authority to use protective acquisition when there is an imminent threat of development.

One commenter objected to the ''extra restrictions'' contained in the guidance for ROW acquisitions. FTA believes that the restrictions in this guidance are the minimum necessary to comply with Federal laws and to ensure that Federal funds entrusted to FTA are spent for the purpose that Congress intended.

A commenter recommended that the guidance be changed to include railroad ROW that has lost its visual identity over the years as a railroad ROW and has been generally incorporated into background land uses. FTA has not incorporated this change into the final guidance. The premise in preserving a railroad corridor for a future transit project without first considering the environmental impacts of the future transit project is that, in FTA's experience, existing rail corridors have been the least environmentally damaging location for transit projects. Where a former railroad corridor has been incorporated into the background land uses, that premise is not valid.

One commenter suggested that the guidance be revised to apply to the acquisition of any property owned by a railroad company, without regard to the configuration of the property or its contiguity to a linear railroad ROW. FTA has decided not to follow this suggestion. The statutory provision is titled ''Railroad Corridor Preservation'' and random parcels of land that are not primarily linear in configuration would not qualify as ''railroad corridors.''

A commenting agency stated: ''We are adamantly opposed to an FTA unilateral determination of a time horizon'' for building the transit project on the railroad ROW acquired with FTA assistance. Another late-commenting agency expressed the same sentiment. FTA is responsible for ensuring that Federal transit funds result in transit

improvements, but FTA did not mean to imply that the time horizon for building the transit project would be arbitrarily dictated. The draft guidance indicted that long-range metropolitan transportation plan would be considered before setting the time horizon. To be clearer on this point, FTA has added that the decision on the time horizon would be made ''in consultation with the applicant.'' FTA expects to be flexible in extending the time horizon as long as there is a reasonable assurance that a transit project will ultimately be built on the railroad ROW.

A commenter pointed out that an acquisition of a railroad ROW may take the form of a fee-simple acquisition, the acquisition of a long-term easement within the railroad ROW alongside the existing tracks, or the long-term acquisition of trackage rights, i.e., the right to operate on existing tracks. Although the commenter assumed that the guidance applies to all forms of acquisition, FTA decided to state explicitly in the guidance that it applies to all forms of acquisition and included a ''long-term lease'' to the forms mentioned by the commenter. In coming to this conclusion, FTA was guided by Federal transit law, which at 49 U.S.C. 5302(a)(1)(A) broadly includes the acquisition of trackage rights within the definition of ''Capital Project.'' Noting again that the statutory provision is titled ''Railroad Corridor Preservation,'' FTA decided that the term of anything less than a fee-simple acquisition must be of sufficient duration to cover the time needed to build a transit project on the ROW plus the useful life of that transit facility. The guidance notes that FTA Circular 5010.1D, *Grants Management Requirements,* provides that a railroad structure has a minimum useful life of 50 years, and most other transit buildings and facilities (concrete, steel, and frame construction) have a minimum useful life of 40 years.

One commenter made the following statement concerning the proposed guidance: ''Section 10 of the [draft] guidance is somewhat confusing because if work is to be performed on the corridor, such as remediation, it would likely be part of the project that would require later approval. It should be eliminated leaving only the clear requirements of section 11. Maintenance of existing conditions would not generally be a part of the Federal undertaking.'' FTA disagrees. Prior to or during the acquisition of real property, an applicant's due diligence may discover contamination along the ROW that poses a health or environmental hazard. Immediate remediation of the problem in accordance with applicable State law would be appropriate in that instance. Waiting for the future transit project on the ROW to deal with a contamination problem may greatly increase the risk of harm to the environment or the general public, as well as the applicant's potential liability. FTA agrees that in most cases contamination would not pose an immediate, severe threat and could be addressed during the later construction of a transit facility on the ROW. A minor rewording of section 10 of the draft guidance to this effect has been made. The subject section is section 9 in the final guidance as a result of other edits.

If there are railroad buildings or structures along the ROW that are eligible for the National Register of Historic Places and whose ownership would change with the acquisition of the ROW by the applicant, steps will need to be taken to ensure compliance with Section 106 of the National Historic Preservation Act and its implementing regulation at 36 CFR Part 800. One example of an adverse effect under that regulation is the neglect of a historic property, so compliance may entail the maintenance of the historic structures and buildings until such time as further action is taken when the future transit project on the ROW is developed. ''Maintenance of existing conditions'' during the interim would be required as ''part of the Federal undertaking.''

One commenter asked for clarification of what project or project(s) must be in the State Transportation Improvement Program (STIP) at the time of FTA's approval of the acquisition of the ROW. The guidance states that the acquisition of the ROW and the later transit project on that ROW are separate actions for planning and NEPA purposes and that only the acquisition must be in the STIP at the time of FTA's approval of the acquisition. The transit project on the ROW must be in the STIP at the time of FTA's approval of that project (if it is FTA-funded). FTA slightly revised the wording in the guidance in an attempt to make this point more clearly.

One commenter asked that the guidance discuss at length the application of the Uniform Relocation and Real Property Acquisition Policies Act (Uniform Act), including its relocation requirements, for each of three acquisition types previously discussed (*i.e.,* fee simple, easement, and trackage rights). FTA has decided that this is outside the scope of this guidance. The requirements of the Uniform Act are adequately covered in its implementing regulation (49 CFR Part 24). Section 6 of the guidance was intended as a reminder that the Uniform Act generally applies when the action involves Federal funding, but it was not intended to delve into the details of its applicability and requirements. FTA changed the wording of Section 6 to avoid the apparent implication that all requirements of the Uniform Act would apply to all types of acquisition.

One commenter suggested that appropriate ROW acquisition regulations would avoid the intense scrutiny that is generated by projects that must use eminent domain to acquire needed land. FTA has decided that the comment is outside the scope of this guidance on 49 U.S.C. 5324(c). The Uniform Act and its implementing regulation (49 CFR Part 24) are not the subject of this guidance.

One commenter asked that the guidance clarify that the value of the railroad ROW acquired in accordance with this guidance with Federal funds other than New/Small Starts funds may be counted as ''other Federal'' funds when computing the various funding shares of the future New/Small Starts project that uses the ROW. FTA considered this suggestion and decided that these New Starts and Small Starts issues are beyond the scope of this guidance on railroad ROW acquisition. FTA intends to resolve issues related to New and Small Starts in accordance with the pertinent policies and statutory requirements in effect at the time the issue arises. FTA's thinking was influenced by the fact that the current authorization of the Federal transit program ends on September 30, 2009. Therefore, FTA deleted from the final guidance two provisions of the proposed guidance related to New and Small Starts, which are: (1) The provision that is the subject of the instigating comment and that said that railroad ROW acquired with FTA financial assistance would not be counted as in-kind local match for a New/Small Starts project built on that ROW; and (2) the provision which said that FTA financial participation in the acquisition of a railroad ROW would have no bearing whatsoever on the New/Small Starts evaluation of a project proposed to be built on that ROW.

The final guidance is available in the U.S. Government's electronic docket site at *http://www.regulations.gov* under docket number FTA–2008–0054 and on the FTA Web site at *http://www.fta.dot.gov* under ''Planning and Environment.''

Issued on: April 24, 2009.

Matthew J. Welbes,

Acting Deputy Administrator.

[FR Doc. E9–9977 Filed 4–29–09; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

FTA Supplemental Fiscal Year 2009 Apportionments and Allocations

Editorial Note: FR document E9–9475 was originally published at page 19115 in the issue of Monday, April 27, 2009. In that publication graphic material was omitted. The corrected document is republished below in its entirety.

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: Division I of the ''Omnibus Appropriations Act, 2009'' (Pub. L. 111–8), signed into law by President Barack Obama on March 11, 2009, made funds available for all of the surface transportation programs of the Department of Transportation (DOT) for the Fiscal Year (FY) ending September 30, 2009. This notice supplements the December 18, 2008 **Federal Register** notice. The notice apportions formula funds made available under the Omnibus Appropriations Act and allocates FY 2009 funds to congressionally designated projects that were contained in the accompanying committee report and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU). The notice does not include any extensions of previously lapsed earmarks. The Federal Transit Administration (FTA) will address allocations of lapsed and/or unallocated resources subsequent to this notice.

FOR FURTHER INFORMATION CONTACT: For general information about this notice contact Henrika Buchanan-Smith, Office of Program Management, at (202) 366–2053. Please contact the appropriate FTA regional or metropolitan office for any specific requests for information or technical assistance. Appendix A at the end of this notice includes contact information for FTA regional and metropolitan offices.

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I. Overview

This document apportions and allocates FY 2009 formula funds appropriated in Division I of the Omnibus Appropriations Act, 2009 (Pub. L. 111–8, March 11, 2009), and FY 2009 funds designated for specific projects under SAFETEA–LU and the committee report accompanying the Omnibus Appropriations Act, 2009, for the Bus and Bus Facilities program, New Starts program, Clean Fuels program, and the Alternatives Analysis program. It also includes projects that were extended or reprogrammed as a matter of law in the Omnibus Appropriations Act, 2009. This notice does not include allocations of recovered previous years' discretionary funds or unallocated FY 2009 discretionary resources. FTA will provide information regarding the availability of unallocated discretionary resources at a later date.

FTA reminds grantees apportioned formula funds from the American Recovery and Reinvestment Act (Pub. L. 111–05; ''ARRA'') that at least fifty percent of the funds attributable to each urbanized areas over 200,000 in population and each State for all other areas must be obligated in a FTA grant by September 1, 2009. The March 5, 2009 Federal Register notice that apportioned ARRA funds provides more details about this requirement and includes the statement that ''FTA will consider a submittal timely if a complete ARRA formula grant is received on or before July 1, 2009.'' FTA reminds grantees that the July 1, 2009 deadline accounts for the Department of Labor process associated with labor certifications which can take up to 60 days to complete the certification referral process. Grantees are strongly encouraged to submit applications well in advance of that deadline whenever possible. Planning submission of a grant application on or near July 1, 2009 might not account for local decision

making schedules that could be subject to change, or to any grant errors or issues for resolution that might be identified. Taking these other considerations into account makes it prudent to submit applications as soon as feasible.

II. FTA Program Funding Based on the Omnibus Appropriations Act, 2009

The Omnibus Appropriations Act, 2009, provides general funds and obligation authority on trust funds from the Mass Transit Account (MTA) that total $10.2 billion for FTA programs. FTA previously published a notice on December 18, 2008, that made $4.1 billion of the $10.2 billion available in accordance with the Continuing Appropriations Act. Table 1 of this document shows the funding for the FTA programs, as provided for in the entire fiscal year of 2009 in the Omnibus Appropriations Act, 2009. All Formula programs, the Alternatives Analysis program, and the Section 5309 Bus and Bus-Related Facilities program are funded entirely from the Mass Transit Account of the Highway Trust Fund in FY 2009. The Section 5309 New Starts Program, the Research Program, and FTA administrative expenses are funded by appropriations from the General Fund of the Treasury.

III. FY 2009 FTA Program Initiatives and Changes

A. Match for Biodiesel Vehicles and Hybrid Retrofits

Section 164 of the Omnibus Appropriations Act, 2009, allows a 90 percent Federal share for biodiesel buses and for the net capital cost of factory-installed or retrofitted hybrid electric propulsion systems and any equipment related to such a system. This increased federal share is a cross-cutting provision and is applicable across FTA programs for any grants awarded during FY 2009, regardless of what fiscal year funding is used. Grantees may apply for a 90 percent Federal share for the entire cost of a biodiesel bus. However, in the case of a hybrid electric vehicle, only the cost of the propulsion system and related equipment is eligible for 90 percent Federal share. In lieu of calculating the costs of the equipment separately, grantees may apply for 83 percent of the cost of the vehicle.

B. Use of Lapsed and Recovered Funds

Section 170 of the Omnibus Appropriations Act, 2009, restricts the use of unobligated funds or recovered funds under Section 5309 that are available for reallocation by the Secretary of Transportation. Specifically, Section 170 provides that the Secretary may reallocate Section 5309 discretionary funds only to projects eligible to use the funds for the purposes for which they were originally provided. Accordingly, Section 5309 Bus and Bus Facilities (Bus) Program recovered or unobligated lapsed funds must be redirected to projects eligible under the Bus Program and Section 5309 Capital Investment (New Starts) Program recovered or unobligated lapsed funds must be redirected to projects eligible under the New Starts Program. In accordance with 49 U.S.C. 5337(d)(2), Section 5309 Fixed Guideway Modernization (Fixed Guideway) program funds that are recovered or unobligated are reapportioned by formula for projects eligible under the Fixed Guideway Modernization program.

C. Congressional Notification of Discretionary Grant Awards

Before FTA can award grants for discretionary projects and activities designated by Congress, if the award exceeds an established dollar threshold, notification three full business days prior to award must be given to members of Congress and to the House and Senate authorizing and appropriations committees. In previous years, the amount requiring Congressional notification was $1 million; however, the Continuing Appropriations Act, 2008, lowered the threshold for notification to $500,000. Section 188 of the Omnibus Appropriations, 2009, extends the lowered threshold amount. Therefore, FTA will continue to notify Congress before making a discretionary grant award that is $500,000 or more.

IV. FTA Programs

A. Metropolitan Planning Program (49 U.S.C. 5305(d))

Section 5305(d) authorizes federal funding to support a cooperative, continuous, and comprehensive planning program for transportation investment decision-making in metropolitan areas as set forth in 49 U.S.C. 5303. Detailed program information was previously published in the **Federal Register** on December 18, 2008. For more information about Metropolitan Transportation Planning and the Metropolitan Planning Program, including FTA Circular 8100.1C, contact Charles Goodman, of the Office of Planning and Environment, at (202) 366–1944. For information about published allocations, contact Kimberly Sledge, Office of Transit Programs, at (202) 366–2053.

FY 2009 Funding Availability

The Omnibus Appropriations Act, 2009, provides $93,887,200 to the Metropolitan Planning Program (49 U.S.C. 5305(d)). The total amount apportioned for the Metropolitan Planning Program to States for use by metropolitan planning organizations (MPOs) in urbanized areas (UZAs) is $93,626,320, as shown in the table below, after the deduction for oversight and the addition of previous year reapportioned funds.

METROPOLITAN PLANNING PROGRAM

Total Appropriation	$93,887,200
Oversight Deduction	−469,436
Prior Year Funds Added	208,556
Total Apportioned	93,626,320

Apportionments for this program are displayed in Table 2.

B. State Planning and Research Program (49 U.S.C. 5305(e))

This program provides financial assistance to States for Statewide transportation planning as set forth in 49 U.S.C. 5304 and other technical assistance activities, including supplementing the technical assistance program provided through the Metropolitan Planning Program. Detailed program information was previously published in the **Federal Register** on December 18, 2008. For more information about statewide transportation planning and the State Planning and Research Program, including FTA Circular 8100.1C, contact Charles Goodman, of the Office of Planning and Environment, at (202) 366–1944. For information about published allocations, contact Kimberly Sledge, Office of Transit Programs, at (202) 366–2053.

FY 2009 Funding Availability

The Omnibus Appropriations Act, 2009, provides $19,612,800 to the State Planning and Research Program (SPRP) (49 U.S.C. 5305(e)). The total amount apportioned for SPRP is $20,348,334, as shown in the table below, after the deduction for oversight (authorized by 49 U.S.C. 5327) and the addition of unspent funds from previous years.

STATE PLANNING AND RESEARCH PROGRAM

Total Appropriation	$19,612,800
Oversight Deduction	−98,064
Prior Year Funds Added	833,598

STATE PLANNING AND RESEARCH PROGRAM—Continued

Total Apportioned	20,348,334

Apportionments for this program are displayed in Table 2.

C. Urbanized Area Formula Program (49 U.S.C. 5307)

Section 5307 authorizes Federal funding for capital and in some cases, operating assistance, and planning activities, for transit in Urbanized Area (UZAs). A UZA is an area with a population of 50,000 or more that has been defined and designated as such in the most recent decennial Census by the U.S. Census Bureau. Detailed program information was previously published in the **Federal Register** on December 18, 2008. For more information contact the Office of Program Management at (202) 366–2053.

FY 2009 Funding Availability

The Omnibus Appropriations Act, 2009, provides $4,160,365,000 to the Urbanized Area Formula Program (49 U.S.C. 5307). The total amount apportioned for the Urbanized Area Formula Program is $4,530,561,686 as shown in the table below, after the 0.75 percent deduction for oversight (authorized by 49 U.S.C. 5327), the addition of previous year funding and including funds apportioned to UZAs from the appropriation for Section 5340 for Growing States and High Density States.

URBANIZED AREA FORMULA PROGRAM

Total Appropriation	$4,160,365,000 [a]
Oversight Deduction	−31,202,738
Prior Year Funds Added	9,603,308
Section 5340 Funds Added	391,796,116
Total Apportioned	4,530,561,686

[a] One percent set-aside for Small Transit Intensive Cities Formula.

Table 3 displays the amounts apportioned under the Urbanized Area Formula Program. Table 5–A provides a list of the urbanized areas that crossed-over the 200,000 population threshold (or were merged with existing large urbanized areas) as a result of the 2000 Census. These areas may use their FY 2009 apportionment to fund operating assistance projects up-to the operating limitation specified in the Table 5–A.

D. Clean Fuels Grant Program (49.U.S.C. 5308)

The Clean Fuels Grant Program supports the use of alternative fuels in air quality maintenance or nonattainment areas for ozone or carbon monoxide through capital grants to urbanized areas for clean fuel vehicles and facilities. Detailed program information was previously published in the **Federal Register** on December 18, 2008. For more information about this program, contact Kimberly Sledge, Office of Program Management, at (202) 366–2053.

1. FY 2009 Funding Availability

The Omnibus Appropriations Act, 2009, provides $51,500,000 to the Clean Fuels Grant Program (49 U.S.C. 5308). The amount available to be allocated is displayed in the table below.

CLEAN FUELS GRANT PROGRAM

Total Appropriation	$51,500,000
Oversight Deduction	0
Total Available	51,500,000
Total Allocated to Specific Projects	−21,632,000
Total Unallocated	29,868,000

FY 2009 Clean Fuel Program allocations are shown in Table 7–A.

2. Period of Availability

The FY 2009 Clean Fuels Grant program funds not obligated in a grant for eligible purposes as of September 30, 2011, may be made available for other projects under 49 U.S.C. 5308.

E. Capital Investment Program (49 U.S.C. 5309)—Fixed Guideway Modernization

This program provides capital assistance for the maintenance, recapitalization and modernization of existing fixed guideway systems. Detailed program information was previously published in the **Federal Register** on December 18, 2008. For more information about Fixed Guideway Modernization contact the Office of Program Management, at (202) 366–2053.

FY 2009 Funding Availability

The Omnibus Appropriations Act, 2009, provides $1,666,500,000 to the Fixed Guideway Modernization Program. The total amount apportioned for the Fixed Guideway Modernization Program is $1,650,085,466, after the deduction for oversight, and addition of prior year reapportioned funds, as shown in the table below.

FIXED GUIDEWAY MODERNIZATION PROGRAM

Total Appropriation	$1,666,500,000
Oversight Deduction	−16,665,000
Prior Year Funds Added	250,466

FIXED GUIDEWAY MODERNIZATION PROGRAM—Continued

Total Apportioned	1,650,085,466

FY 2009 Fixed Guideway Modernization Program apportionments are displayed in Table 8.

F. Capital Investment Program (49 U.S.C. 5309)—Bus and Bus-Related Facilities

This program provides capital assistance for new and replacement buses, and related equipment and facilities. Funds are allocated on a discretionary basis. Detailed program information was previously published in the **Federal Register** on December 18, 2008. For more information about Bus and Bus-Related Facilities contact Kimberly Sledge, Office of Program Management, at (202) 366–2053.

1. FY 2009 Funding Availability

The Omnibus Appropriations Act, 2009, provides $884,000,000 for the Bus and Bus-Related Facilities program. This amount is $100,000,000 below the SAFETEA–LU authorized program funding level based on a rescission of that amount contained in the Omnibus Appropriations Act, 2009. The total amount allocated is shown in the table below.

BUS AND BUS-RELATED FACILITIES

SAFETEA–LU Authorized Level	$984,000,000
Rescission	−100,000,000
Total Available	884,000,000
Oversight Deduction	−8,840,000
Total Available	875,160,000
Total Allocated to Specific Projects	−761,064,229
Total Unallocated	114,095,771

FY 2009 allocations are shown in Table 10–A. Projects reprogrammed by the Omnibus Appropriations Act, 2009, are shown in Table 10–B.

2. Requirements

FTA honors Congressional earmarks for the purposes designated and for purposes eligible under the program or under the expanded eligibility of a ''notwithstanding'' provision. Projects designated under the Section 5309 Bus Program and the Section 5339 Alternatives Analysis Program for funding in the report language accompanying the Omnibus Appropriations Act, 2009, were incorporated as earmarks into the Omnibus Act by section 186. FTA will treat these projects as projects designated in law. The use of funds for any purpose other than as described in

the earmark will require legislation. To apply to use funds designated in report language under the Bus Program in any year for project activities outside the scope of the project designation included in report language, but not earmarked in law or incorporated into law by reference, the recipient must submit a request for reprogramming to the House and Senate Committees on Appropriations for resolution.

3. Period of Availability

The FY 2009 Bus and Bus-Related Facilities funds not obligated in a grant for eligible purposes as of September 30, 2011, may be made available for other eligible bus projects under 49 U.S.C. 5309.

G. Capital Investment Program (49 U.S.C. 5309)—New and Small Starts

The New and Small Starts program provides funds for construction of new fixed guideway systems or extensions to existing fixed guideway systems and, in the case of Small Starts, corridor-based bus systems. Detailed program information was previously published in the **Federal Register** on December 18, 2008. For more information about New and Small Starts project development contact Elizabeth Day, Office of Planning and Environment, at (202) 366–4033, or for information about published allocations contact Kimberly Sledge, Office of Program Management, at (202) 366–2053.

1. FY 2009 Funding Availability

The Omnibus Appropriations Act, 2009, provides $1,809,250,000 to the Capital Investment Program. The total amount allocated for the program is shown in the table below.

CAPITAL INVESTMENT PROGRAM (NEW AND SMALL STARTS)

Total Appropriation	$1,809,250,000
Oversight (one percent)	−(18,092,500)
Total Available	1,791,157,500
Total Allocated to Specific Projects	−1,791,145,293
Total Unallocated	12,207

The FY 2009 Major Capital Investment Program Allocations are shown in Table 11. Projects extended or reprogrammed by the Omnibus Appropriations Act, 2009, are shown in Table 12–A.

H. Special Needs of Elderly Individuals and Individuals With Disabilities Program (49 U.S.C. 5310)

This program provides formula funding to States for capital projects to assist private nonprofit groups in meeting the transportation needs of the elderly and individuals with disabilities when the public transportation service provided in the area is unavailable, insufficient, or inappropriate to meet these needs. Detailed program information was previously published in the **Federal Register** on December 18, 2008. For more information about the Elderly and Individuals with Disabilities Program contact David Schneider, Office of Program Management, at (202) 366–2053.

FY 2009 Funding Availability

The Omnibus Appropriations Act, 2009, provides $133,500,000 to the Elderly and Individuals with Disabilities Program (49 U.S.C. 5310). After deduction of 0.5 percent for oversight (49 U.S.C. 5327), and the addition of reapportioned prior year funds, $135,823,746 remains available for allocation to the States.

ELDERLY AND INDIVIDUALS WITH DISABILITIES PROGRAM

Total Appropriation	$133,500,000
Oversight Deduction	−667,500
Prior Year Funds Added	2,991,246
Total Apportioned	135,823,746

The FY 2009 Elderly and Individuals with Disabilities Program apportionments to the States are displayed in Table 13.

I. Nonurbanized Area Formula Program (49 U.S.C. 5311)

This program provides formula funding to States and Indian Tribes for the purpose of supporting public transportation in areas with a population of less than 50,000. Funding may be used for capital, operating, State administration, and project administration expenses. Detailed program information was previously published in the **Federal Register** on December 18, 2008. For more information about the Nonurbanized Area Formula Program contact Lorna Wilson, Office of Program Management, at (202) 366–2053.

FY 2009 Funding Availability

The Omnibus Appropriations Act, 2009, provides $465,000,000 to the Nonurbanized Area Formula Program (49 U.S.C. 5311). The total amount apportioned for the Nonurbanized Area Formula Program is $511,684,110, after take-downs of two percent for the Rural Transportation Assistance Program (RTAP), 0.5 percent for oversight, and $15,000,000 for the Tribal Transit Program, and the addition of Section 5340 funds and prior year funds reapportioned, as shown in the table below.

NONURBANIZED AREA FORMULA PROGRAM

Total Appropriation	$465,000,000
Oversight Deduction	−2,325,000
RTAP Takedown	−9,300,000
Tribal Transit Takedown	−15,000,000
Prior Year Funds Added	105,226
Section 5340 Funds Added	73,203,884
Total Apportioned	511,684,110

The FY 2009 Nonurbanized Area Formula apportionments to the States are displayed in Table 14.

J. Rural Transportation Assistance Program (49 U.S.C. 5311(b)(3))

This program provides funding to assist in the design and implementation of training and technical assistance projects, research, and other support services tailored to meet the needs of transit operators in nonurbanized areas. Detailed program information was previously published in the **Federal Register** on December 18, 2008. For more information about RTAP contact Lorna Wilson, Office of Program Management, at (202) 366–2053.

FY 2009 Funding Availability

The Omnibus Appropriations Act, 2009, provides $9,300,000 to RTAP (49 U.S.C. 5311(b)(2)), as a two percent takedown from the funds appropriated for Section 5311. FTA has reserved 15 percent for the National RTAP program. After adding prior year funds eligible for reapportionment, $7,905,016 is available for allocations to the States, as shown in the table below.

RURAL TRANSIT ASSISTANCE PROGRAM

Total Appropriation	$9,300,000
National RTAP Takedown	−1,395,000
Prior Year Funds Added	16
Total Apportioned	7,905,016

Table 14 shows the FY 2009 RTAP allocations to the States.

K. Public Transportation on Indian Reservations Program (49 U.S.C. 5311(c)(1))

FTA refers to this program as the Tribal Transit Program. It is funded as a takedown from funds appropriated for the Section 5311 program. Federally recognized Indian Tribes are eligible direct recipients. Detailed program information was previously published in the **Federal Register** on December 18, 2008. For more information about the

Tribal Transit Program contact Lorna Wilson, Office of Program Management, at (202) 366–2053.

1. Funding Availability in FY 2009

Under the Omnibus Appropriations Act, 2009, the amount allocated to the program in FY 2009 is $15,000,000, as authorized in Section 5311(c)(1)(C). After adding prior year funds eligible for reallocation, $15,024,797 is available for allocation.

2. Basis for Allocation

Based on procedures developed in consultation with the Tribes, FTA has issued a Notice of Funding Availability (NOFA) soliciting applications for FY 2009 funds.

L. National Research Programs (49 U.S.C. 5314)

FTA's National Research Programs (NRP) include the National Research and Technology Program (NRTP), the Transit Cooperative Research Program (TCRP), the National Transit Institute (NTI), and the University Transportation Centers Program (UTC). Detailed program information was previously published in the **Federal Register** on December 18, 2008. For more information contact Linda Wolfe, Office of Research, Demonstration and Innovation, at (202) 366–8511.

Funding Availability in FY 2009

The Omnibus Appropriations Act, 2009, provides $67,000,000 for the National Research Programs. Of this amount $10,000,000 is allocated for TCRP, $4,300,000 for NTI, $7,000,000 for the UTC, and $45,700,000 for NRTP. Within the NRTP-$22,165,000 is allocated for specific activities under 49 U.S.C. 5338(d) and in Section 3046 of SAFETEA–LU. An additional $5,937,500 was allocated for specific activities in 2009 Appropriations Act. All research and research and development projects, as defined by the Office of Management and Budget, are subject to a 2.75 percent reduction for the Small Business Innovative Research Program (SBIR). The takedown has been applied where applicable, unless the purpose of the project is unclear. A breakdown of NRP funds is provided in the table below.

NATIONAL RESEARCH PROGRAMS

Total Appropriation	$67,000,000
Funds Allocated for Specific Programs or Activities	49,598,054
Small Business Innovative Research Takedown estimate	254,446
Funds Available for FTA Programming	17,147,500
Total NPR Funding	67,000,000

The project allocations are listed in Table 20.

M. Job Access and Reverse Commute Program (49 U.S.C. 5316)

The Job Access and Reverse Commute (JARC) program provides formula funding to States and Designated Recipients to support the development and maintenance of job access projects designed to transport welfare recipients and low-income individuals to and from jobs and activities related to their employment, and for reverse commute projects designed to transport residents of UZAs and other than urbanized areas to suburban employment opportunities. Detailed program information was previously published in the **Federal Register** on December 18, 2008. For more information about the JARC program contact David Schneider, Office of Program Management, at (202) 366–2053.

Funding Availability in FY 2009

The Omnibus Appropriations Act, 2009, provides $164,500,000 for the JARC Program. FTA is also reallocating $18,603,175 in lapsed FY 2006 JARC funds. The total amount apportioned by formula is shown in the table below.

JOB ACCESS AND REVERSE COMMUTE PROGRAM

Total Appropriation	$164,500,000
Prior Year Funds Added	18,603,175
Total Apportioned	183,103,175

Table 16 shows the FY 2009 JARC apportionments.

N. New Freedom Program (49 U.S.C. 5317)

SAFETEA–LU established the New Freedom Program under 49 U.S.C. 5317. The program purpose is to provide new public transportation services and public transportation alternatives beyond those currently required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*) that assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services. Detailed program information was previously published in the **Federal Register** on December 18, 2008. For more information about the New Freedom program contact David Schneider, Office of Program Management, at (202) 366–2053.

Funding Availability in FY 2009

The Omnibus Appropriations Act, 2009, provides $92,500,000 for the New Freedom Program. In addition, $8,359,585 in lapsed FY 2006 New Freedom funds is also being reallocated. The entire amount is apportioned by formula, as shown in the table below.

NEW FREEDOM PROGRAM

Total Appropriation	$92,500,000
Prior Year Funds Added	8,359,585
Total Apportioned	100,859,585

Table 18 shows the FY 2009 New Freedom apportionments.

O. Paul S. Sarbanes Transit in Parks Program (49 U.S.C. 5320)

The Paul S. Sarbanes Transit in Parks Program (Transit in Parks Program), formerly the Alternative Transportation in Parks and Public Lands (ATPPL) program, is administered by FTA in partnership with the Department of the Interior (DOI) and the U.S. Department of Agriculture's Forest Service. Detailed program information was previously published in the **Federal Register** on December 18, 2008. For more information on the Paul S. Sarbanes Transit in Parks Program contact the Office of Program Management at (202) 366–2053.

FY 2009 Funding Availability

The Omnibus Appropriations Act, 2009, makes $26,900,000 available for the program in FY 2009. After a 0.5 percent takedown for oversight (authorized by 49 U.S.C. 5327), $26,765,500 is available to be awarded to projects. Up to ten percent of the funds may be reserved for administering the program and for planning, research, and technical assistance. FTA will publish a Notice of Funding Availability (NOFA) in the Federal Register inviting applications for projects to be funded in FY 2009.

P. Alternatives Analysis Program (49 U.S.C. 5339)

The Alternatives Analysis Program provides grants to States, authorities of the States, metropolitan planning organizations, and local government authorities to develop studies as part of the transportation planning process. Alternatives Analysis Program funds are allocated on a discretionary basis. Detailed program information was previously published in the **Federal Register** on December 18, 2008. For

more information about this program contact Maurice Foushee, of the Office of Planning and Environment, at (202) 366–4033.

FY 2009 Funding Availability

The Omnibus Appropriations Act, 2009, provides $25,000,000 to the Alternatives Analysis Program (49 U.S.C. 5339). The amount available for allocation is shown in the table below.

ALTERNATIVES ANALYSIS PROGRAM

Total Appropriation	$25,000,000
Total Available	25,000,000
Total Allocated to Specific Projects	−15,188,125
Total Unallocated	9,811,875

FY 2009 Alternatives Analysis Program allocations are shown in Table 19–A.

Q. Growing States and High Density States Formula Factors

The Omnibus Appropriations Act, 2009, makes $465,000,000 available for apportionment in accordance with the formula factors prescribed for Growing States and High Density States in Section 49 U.S.C. 5340. Fifty percent of this amount (or $232,500,000) is apportioned to eligible States and urbanized areas using the Growing State formula factors. The other 50 percent is apportioned to eligible States and urbanized areas using the High Density States formula factors. Based on application of the formulas, $159,296,116 of the Growing States funding was apportioned to urbanized areas and $73,203,884 to nonurbanized areas. All of the $232,500,000 allotted to High Density States was apportioned to urbanized areas. For more detailed program information, please see the **Federal Register** notice published on December 18, 2008.

R. Over-the-Road Bus Accessibility Program (49 U.S.C. 5310 note)

The Over-the-Road Bus Accessibility (OTRB) Program authorizes FTA to make grants to operators of over-the-road buses to help finance the incremental capital and training costs of complying with the DOT over-the-road bus accessibility final rule, 49 CFR Part 37, published on September 28, 1998 (63 FR 51670). For more information about the OTRB program contact Blenda Younger, Office of Program Management, at (202) 366–2053.

Funding Availability in FY 2009

The Omnibus Appropriations Act, 2009, provides $8,800,000 for the Over-the-Road Bus Accessibility (OTRB) Program, and together with $1,880,335 in lapsed funds provides a total of $10,680,335 allocable for OTRB, as shown in the table below:

OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM

Total Appropriation	$8,800,000
Amount Lapsed	1,880,335
Total Apportioned	10,680,335

Of this amount, $8,010,251 is allocable to providers of intercity fixed-route service, and $2,670,084 to other providers of over-the-road bus services, including local fixed-route service, commuter service, and charter and tour service. FTA will publish a notice, at a later date, soliciting proposals for FY 2009 program funds.

Issued in Washington, DC, this 21st day of April 2009.

Matthew J. Welbes,

Acting Deputy Administrator.

Appendix A

FTA REGIONAL OFFICES

Richard H. Doyle Regional Administrator Region 1—Boston Kendall Square 55 Broadway, Suite 920 Cambridge, MA 02142–1093 Tel. 617 494–2055 States served: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.	Robert C. Patrick Regional Administrator Region 6—Ft. Worth 819 Taylor Street, Room 8A36 Ft. Worth, TX 76102 Tel. 817 978–0550 States served: Arkansas, Louisiana, Oklahoma, New Mexico and Texas.
Brigid Hynes-Cherin Regional Administrator Region 2—New York One Bowling Green, Room 429 New York, NY 10004–1415 Tel. No. 212 668–2170 States served: New Jersey, New York. New York Metropolitan Office Region 2—New York One Bowling Green, Room 428 New York, NY 10004–1415 Tel. 212–668–2202.	Mokhtee Ahmad Regional Administrator Region 7—Kansas City, MO 901 Locust Street, Room 404 Kansas City, MO 64106 Tel. 816 329–3920 States served: Iowa, Kansas, Missouri, and Nebraska.
Letitia Thompson Regional Administrator Region 3—Philadelphia 1760 Market Street, Suite 500 Philadelphia, PA 19103–4124 Tel. 215 656–7100 States served: Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and District of Columbia.	Terry Rosapep Regional Administrator Region 8—Denver 12300 West Dakota Ave., Suite 310 Lakewood, CO 80228–2583 Tel. 720–963–3300 States served: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.

FTA REGIONAL OFFICES—Continued

Philadelphia Metropolitan Office Region 3—Philadelphia 1760 Market Street, Suite 500 Philadelphia, PA 19103–4124 Tel. 215–656–7070 Washington, D.C. Metropolitan Office 1990 K Street, NW Room 510 Washington, DC 20006 Tel. 202–219–3562.	
Yvette Taylor Regional Administrator Region 4—Atlanta 230 Peachtreet Street, NW Suite 800 Atlanta, GA 30303 Tel. 404 865–5600 States served: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and Virgin Islands.	Leslie T. Rogers Regional Administrator Region 9—San Francisco 201 Mission Street, Room 1650 San Francisco, CA 94105–1926 Tel. 415 744–3133 States served: American Samoa, Arizona, California, Guam, Hawaii, Nevada, and the Northern Mariana Islands. Los Angeles Metropolitan Office Region 9—Los Angeles 888 S. Figueroa Street, Suite 1850 Los Angeles, CA 90017–1850 Tel. 213–202–3952.
Marisol Simon Regional Administrator Region 5—Chicago 200 West Adams Street, Suite 320 Chicago, IL 60606 Tel. 312 353–2789 States served: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin. Chicago Metropolitan Office Region 5—Chicago 200 West Adams Street, Suite 320 Chicago, IL 60606 Tel. 312–353–2789.	Rick Krochalis Regional Administrator Region 10—Seattle Jackson Federal Building 915 Second Avenue, Suite 3142 Seattle, WA 98174–1002 Tel. 206 220–7954 States served: Alaska, Idaho, Oregon, and Washington.

BILLING CODE 1301–00–P

FEDERAL TRANSIT ADMINISTRATION

TABLE 1

REVISED FY 2009 APPROPRIATIONS AND APPORTIONMENTS FOR GRANT PROGRAMS

(The total available amount for a program is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

FORMULA AND BUS GRANTS	
Section 5303 Metropolitan Transportation Planning Program	
Total Available	$93,887,200
Less Oversight (one-half percent)	(469,436)
Reapportioned Funds	208,556
Total Apportioned	$93,626,320
Section 5304 Statewide Transportation Planning Program	
Total Available	$19,612,800
Less Oversight (one-half percent)	(98,064)
Reapportioned Funds	833,598
Total Apportioned	$20,348,334
Section 5307 Urbanized Area Formula Program	
Total Available	$4,160,365,000
Less Oversight (three-fourths percent)	(31,202,738)
Reapportioned Funds	9,603,308
Total Apportioned	$4,138,765,570
Section 5308 Clean Fuels Program	$51,500,000
Section 5309 Bus and Bus Facility Program	
Total Available	$884,000,000
Less Oversight (one percent)	(8,840,000)
Funds Available for Allocation	$875,160,000
Section 5309 Fixed Guideway Modernization	
Total Available	$1,666,500,000
Less Oversight (one percent)	(16,665,000)
Reapportioned Funds	250,466
Total Apportioned	$1,650,085,466
Section 5310 Special Needs of Elderly Individuals and Individuals with Disabilities Program	
Total Available	$133,500,000
Less Oversight (one-half percent)	(667,500)
Reapportioned Funds	2,991,246
Total Apportioned	$135,823,746
Section 5311 Nonurbanized Area Formula Program	
Total Available	$440,700,000
Less Oversight (one-half percent)	(2,325,000)
Reapportioned Funds	105,226
Total Apportioned	$438,480,226

FEDERAL TRANSIT ADMINISTRATION

TABLE 1

REVISED FY 2009 APPROPRIATIONS AND APPORTIONMENTS FOR GRANT PROGRAMS

(The total available amount for a program is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

Section 5311(b)(3) Rural Transit Assistance Program (RTAP)		
Total Available	$9,300,000	
Less Amount Reserved for National RTAP	(1,395,000)	
Reapportioned Funds	16	
Total Apportioned	$7,905,016	
Section 5311(c) Public Transportation on Indian Reservations		
Total Available	$15,000,000	
Reallocated Funds	24,797	
Total Apportioned	$15,024,797	
Section 5316 Job Access and Reverse Commute Program		
Total Available	$164,500,000	
Reapportioned Funds	18,603,175	
Total Apportioned	$183,103,175	
Section 5317 New Freedom Program		
Total Available	$92,500,000	
Reapportioned Funds	8,359,585	
Total Apportioned	$100,859,585	
Section 5320 Paul S. Sarbanes Transit in Parks Program		
Total Available	$26,900,000	
Less Oversight (one-half percent)	(134,500)	
Funds Available for Allocation	$26,765,500	
Section 5339 Alternative Analysis Program		
Total Available	$25,000,000	
Funds Available for Allocation	$25,000,000	
Section 5340 Growing States and High Density States Formula		
Total Available	$465,000,000	1/
Total Apportioned	$465,000,000	
Over-the-Road Bus Accessibility Program (Pub. L. 105-85, Section 3038)	$8,800,000	
CAPITAL INVESTMENT GRANTS		
Section 5309 New Starts		
Total Available	$1,809,250,000	
Less Oversight (one percent)	(18,092,500)	
Funds Available for Allocation	$1,791,157,500	
RESEARCH		
Section 5314 National Research Program	$67,000,000	
TOTAL APPROPRIATION (Above Grant Programs)	**$10,133,315,000**	2/
TOTAL APPORTIONMENT/ALLOCATION (Above Grant Programs)	**$10,094,405,235**	

FEDERAL TRANSIT ADMINISTRATION

TABLE 1

REVISED FY 2009 APPROPRIATIONS AND APPORTIONMENTS FOR GRANT PROGRAMS

(The total available amount for a program is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

1/ Apportionments derived from the Section 5340 formula are combined with the Section 5307 or Section 5311 apportionments, as appropriate, in accordance with language in the SAFETEA-LU conference report.

2/ The total amount appropriated for FTA programs in the Omnibus Appropriations Act, 2009 is $10.2 billion. The amount shown here only includes funding for the programs included in this notice and shown above.

FEDERAL TRANSIT ADMINISTRATION

TABLE 2

REVISED FY 2009 SECTION 5303 METROPOLITAN TRANSPORTATION PLANNING PROGRAM AND SECTION 5304 STATEWIDE TRANSPORTATION PLANNING PROGRAM APPORTIONMENTS

(Apportionment amount is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

STATE	SECTION 5303 APPORTIONMENT	SECTION 5304 APPORTIONMENT
Alabama	$708,714	$192,536
Alaska	374,505	101,742
Arizona	1,872,430	387,626
Arkansas	374,505	101,742
California	14,729,065	2,977,450
Colorado	1,403,151	318,674
Connecticut	1,040,011	282,524
Delaware	374,505	101,742
District of Columbia	374,505	101,742
Florida	6,118,526	1,336,013
Georgia	2,413,254	496,921
Hawaii	374,505	101,742
Idaho	374,505	101,742
Illinois	5,192,192	965,797
Indiana	1,410,542	338,308
Iowa	406,998	110,569
Kansas	475,878	119,797
Kentucky	593,936	155,397
Louisiana	927,894	251,491
Maine	374,505	101,742
Maryland	2,098,679	426,237
Massachusetts	2,757,408	558,912
Michigan	3,080,172	652,487
Minnesota	1,314,490	268,961
Mississippi	374,505	101,742
Missouri	1,386,466	306,541
Montana	374,505	101,742
Nebraska	374,505	101,742
Nevada	685,455	166,262
New Hampshire	374,505	101,742
New Jersey	4,343,314	769,049
New Mexico	374,505	101,742
New York	8,278,489	1,537,803
North Carolina	1,373,053	373,017
North Dakota	374,505	101,742
Ohio	2,979,512	725,160
Oklahoma	541,660	147,152
Oregon	833,237	195,999
Pennsylvania	3,846,574	814,396
Puerto Rico	1,553,577	344,831
Rhode Island	386,969	101,742
South Carolina	684,111	185,852
South Dakota	374,505	101,742
Tennessee	1,082,387	294,052
Texas	6,872,871	1,467,506
Utah	638,205	173,381
Vermont	374,505	101,742
Virginia	2,124,743	467,482
Washington	1,995,828	426,866
West Virginia	374,505	101,742
Wisconsin	1,109,944	281,929
Wyoming	374,505	101,742
TOTAL	**$93,626,320**	**$20,348,334**

FEDERAL TRANSIT ADMINISTRATION

TABLE 3

REVISED FY 2009 SECTION 5307 AND SECTION 5340 URBANIZED AREA APPORTIONMENTS

(Apportionment amount is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

(Note: In accordance with language in the SAFETEA-LU conference report, an urbanized area apportionments for Section 5307 and Section 5340 were combined to show a single amount. An area's apportionment amount includes regular Section 5307 funds, Small Transit Intensive Cities funds, and Growing States and High Density States formula funds, as appropriate.)

URBANIZED AREA/STATE	APPORTIONMENT
1,000,000 or more in Population	$3,235,171,251
200,000 - 999,999 in Population	823,911,492
50,000 - 199,999 in Population	471,478,943
National Total	$4,530,561,686
Amounts Apportioned to Urbanized Areas 1,000,000 or more in Population:	
Atlanta, GA	$66,182,684
Baltimore, MD	58,160,001
Boston, MA--NH--RI	148,149,542
Chicago, IL--IN	247,951,415
Cincinnati, OH--KY--IN	18,916,749
Cleveland, OH	30,073,102
Columbus, OH	12,219,503
Dallas--Fort Worth--Arlington, TX	66,293,277
Denver--Aurora, CO	50,366,887
Detroit, MI	43,549,848
Houston, TX	68,614,573
Indianapolis, IN	12,082,532
Kansas City, MO--KS	15,343,972
Las Vegas, NV	25,394,035
Los Angeles--Long Beach--Santa Ana, CA	293,806,165
Miami, FL	105,578,879
Milwaukee, WI	21,547,019
Minneapolis--St. Paul, MN	50,788,274
New Orleans, LA	18,667,329
New York--Newark, NY--NJ--CT	885,634,772
Orlando, FL	19,896,049
Philadelphia, PA--NJ--DE--MD	141,322,342
Phoenix--Mesa, AZ	48,567,702
Pittsburgh, PA	37,269,705
Portland, OR--WA	37,670,961
Providence, RI--MA	34,429,580
Riverside--San Bernardino, CA	27,506,366
Sacramento, CA	22,730,161
San Antonio, TX	23,575,307
San Diego, CA	61,088,128
San Francisco--Oakland, CA	131,526,018
San Jose, CA	41,746,371
San Juan, PR	33,744,140
Seattle, WA	94,390,501
St. Louis, MO--IL	34,582,392
Tampa--St. Petersburg, FL	25,128,143
Virginia Beach, VA	19,120,627
Washington, DC--VA--MD	161,556,200
Total	**$3,235,171,251**

FEDERAL TRANSIT ADMINISTRATION

TABLE 3

REVISED FY 2009 SECTION 5307 AND SECTION 5340 URBANIZED AREA APPORTIONMENTS

(Apportionment amount is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

(Note: In accordance with language in the SAFETEA-LU conference report, an urbanized area apportionments for Section 5307 and Section 5340 were combined to show a single amount. An area's apportionment amount includes regular Section 5307 funds, Small Transit Intensive Cities funds, and Growing States and High Density States formula funds, as appropriate.)

URBANIZED AREA/STATE	APPORTIONMENT
Amounts Apportioned to Urbanized Areas 200,000 to 999,999 in Population	
Aguadilla--Isabela--San Sebastian, PR	$4,193,158
Akron, OH	6,619,111
Albany, NY	10,897,892
Albuquerque, NM	8,590,872
Allentown--Bethlehem, PA--NJ	7,888,546
Anchorage, AK	24,100,979
Ann Arbor, MI	4,873,644
Antioch, CA	6,513,594
Asheville, NC	1,945,172
Atlantic City, NJ	10,705,962
Augusta-Richmond County, GA--SC	2,486,294
Austin, TX	19,725,214
Bakersfield, CA	6,135,470
Barnstable Town, MA	5,524,900
Baton Rouge, LA	4,997,294
Birmingham, AL	6,545,340
Boise City, ID	2,717,822
Bonita Springs--Naples, FL	2,534,720
Bridgeport--Stamford, CT--NY	26,011,834
Buffalo, NY	18,108,602
Canton, OH	3,884,604
Cape Coral, FL	4,372,616
Charleston--North Charleston, SC	4,878,852
Charlotte, NC--SC	15,688,062
Chattanooga, TN--GA	3,515,207
Colorado Springs, CO	6,625,970
Columbia, SC	4,019,704
Columbus, GA--AL	2,229,786
Concord, CA	21,360,170
Corpus Christi, TX	4,772,930
Davenport, IA--IL	3,961,565
Dayton, OH	15,662,602
Daytona Beach--Port Orange, FL	4,497,869
Denton--Lewisville, TX	3,115,212
Des Moines, IA	5,957,460
Durham, NC	6,330,678
El Paso, TX--NM	11,388,257
Eugene, OR	4,888,438
Evansville, IN--KY	2,218,658
Fayetteville, NC	2,348,777
Flint, MI	6,032,543
Fort Collins, CO	2,563,127
Fort Wayne, IN	3,084,822
Fresno, CA	9,106,793
Grand Rapids, MI	8,006,484
Greensboro, NC	4,115,367
Greenville, SC	2,241,596
Gulfport--Biloxi, MS	1,822,316

FEDERAL TRANSIT ADMINISTRATION

TABLE 3

REVISED FY 2009 SECTION 5307 AND SECTION 5340 URBANIZED AREA APPORTIONMENTS

(Apportionment amount is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

(Note: In accordance with language in the SAFETEA-LU conference report, an urbanized area apportionments for Section 5307 and Section 5340 were combined to show a single amount. An area's apportionment amount includes regular Section 5307 funds, Small Transit Intensive Cities funds, and Growing States and High Density States formula funds, as appropriate.)

URBANIZED AREA/STATE	APPORTIONMENT
Harrisburg, PA	5,298,028
Hartford, CT	21,458,392
Honolulu, HI	28,580,124
Huntsville, AL	1,834,563
Indio--Cathedral City--Palm Springs, CA	3,555,944
Jackson, MS	2,603,818
Jacksonville, FL	14,609,146
Knoxville, TN	4,374,002
Lancaster, PA	7,389,777
Lancaster--Palmdale, CA	7,389,152
Lansing, MI	5,391,071
Lexington-Fayette, KY	4,144,993
Lincoln, NE	2,864,313
Little Rock, AR	4,094,470
Louisville, KY--IN	13,327,843
Lubbock, TX	2,944,283
Madison, WI	7,184,534
McAllen, TX	3,551,154
Memphis, TN--MS--AR	13,404,136
Mission Viejo, CA	10,111,508
Mobile, AL	3,078,856
Modesto, CA	4,213,078
Nashville-Davidson, TN	10,574,978
New Haven, CT	19,470,145
Ogden--Layton, UT	7,305,764
Oklahoma City, OK	7,544,608
Omaha, NE--IA	7,447,840
Oxnard, CA	7,690,640
Palm Bay--Melbourne, FL	4,523,615
Pensacola, FL--AL	3,029,266
Peoria, IL	3,170,703
Port St. Lucie, FL	2,370,305
Poughkeepsie--Newburgh, NY	17,617,938
Provo--Orem, UT	5,424,006
Raleigh, NC	6,845,384
Reading, PA	3,224,093
Reno, NV	5,550,150
Richmond, VA	10,430,107
Rochester, NY	11,680,908
Rockford, IL	2,781,837
Round Lake Beach--McHenry--Grayslake, IL--WI	4,191,428
Salem, OR	3,900,785
Salt Lake City, UT	23,780,907
Santa Rosa, CA	4,714,234
Sarasota--Bradenton, FL	6,957,751
Savannah, GA	3,387,055
Scranton, PA	4,286,615
Shreveport, LA	3,559,519
South Bend, IN--MI	4,263,006
Spokane, WA--ID	8,002,310
Springfield, MA--CT	13,053,701
Springfield, MO	2,167,017

FEDERAL TRANSIT ADMINISTRATION

TABLE 3

REVISED FY 2009 SECTION 5307 AND SECTION 5340 URBANIZED AREA APPORTIONMENTS

(Apportionment amount is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

(Note: In accordance with language in the SAFETEA-LU conference report, an urbanized area apportionments for Section 5307 and Section 5340 were combined to show a single amount. An area's apportionment amount includes regular Section 5307 funds, Small Transit Intensive Cities funds, and Growing States and High Density States formula funds, as appropriate.)

URBANIZED AREA/STATE	APPORTIONMENT
Stockton, CA	7,590,174
Syracuse, NY	7,647,057
Tallahassee, FL	2,601,545
Temecula--Murrieta, CA	3,066,663
Thousand Oaks, CA	2,980,413
Toledo, OH--MI	6,649,282
Trenton, NJ	11,484,944
Tucson, AZ	12,079,700
Tulsa, OK	6,673,449
Victorville--Hesperia--Apple Valley, CA	2,573,044
Wichita, KS	4,997,295
Winston-Salem, NC	2,863,572
Worcester, MA--CT	9,050,025
Youngstown, OH--PA	3,497,644
Total	**$823,911,492**

FEDERAL TRANSIT ADMINISTRATION

TABLE 3

REVISED FY 2009 SECTION 5307 AND SECTION 5340 URBANIZED AREA APPORTIONMENTS

(Apportionment amount is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

(Note: In accordance with language in the SAFETEA-LU conference report, an urbanized area apportionments for Section 5307 and Section 5340 were combined to show a single amount. An area's apportionment amount includes regular Section 5307 funds, Small Transit Intensive Cities funds, and Growing States and High Density States formula funds, as appropriate.)

URBANIZED AREA/STATE	APPORTIONMENT
Amounts Apportioned to State Governors for Urbanized Areas 50,000 to 199,999 in Population	
ALABAMA	$8,377,480
Anniston, AL	777,758
Auburn, AL	719,188
Decatur, AL	684,017
Dothan, AL	655,904
Florence, AL	824,344
Gadsden, AL	645,396
Montgomery, AL	2,660,729
Tuscaloosa, AL	1,410,144
ALASKA	$574,718
Fairbanks, AK	574,718
ARIZONA	$4,126,777
Avondale, AZ	1,004,572
Flagstaff, AZ	744,974
Prescott, AZ	776,345
Yuma, AZ--CA	1,600,886
ARKANSAS	$5,661,842
Fayetteville--Springdale, AR	2,113,012
Fort Smith, AR--OK	1,392,207
Hot Springs, AR	560,690
Jonesboro, AR	586,824
Pine Bluff, AR	729,368
Texarkana, TX--Texarkana, AR	279,741
CALIFORNIA	$64,028,071
Atascadero--El Paso de Robles (Paso Robles), CA	705,329
Camarillo, CA	1,041,601
Chico, CA	1,650,075
Davis, CA	2,337,162
El Centro, CA	1,203,870
Fairfield, CA	2,650,568
Gilroy--Morgan Hill, CA	1,205,837
Hanford, CA	1,389,465
Hemet, CA	1,891,037
Livermore, CA	1,404,643
Lodi, CA	1,552,047
Lompoc, CA	847,144
Madera, CA	892,555
Manteca, CA	981,420
Merced, CA	2,158,241
Napa, CA	1,438,968
Petaluma, CA	1,051,867
Porterville, CA	982,664
Redding, CA	1,259,120
Salinas, CA	3,708,191
San Luis Obispo, CA	1,843,246
Santa Barbara, CA	4,309,520
Santa Clarita, CA	3,775,601
Santa Cruz, CA	3,413,658
Santa Maria, CA	2,163,191
Seaside--Monterey--Marina, CA	2,982,027
Simi Valley, CA	2,293,406
Tracy, CA	1,293,577
Turlock, CA	1,325,227

FEDERAL TRANSIT ADMINISTRATION

TABLE 3

REVISED FY 2009 SECTION 5307 AND SECTION 5340 URBANIZED AREA APPORTIONMENTS

(Apportionment amount is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

(Note: In accordance with language in the SAFETEA-LU conference report, an urbanized area apportionments for Section 5307 and Section 5340 were combined to show a single amount. An area's apportionment amount includes regular Section 5307 funds, Small Transit Intensive Cities funds, and Growing States and High Density States formula funds, as appropriate.)

URBANIZED AREA/STATE	APPORTIONMENT
Vacaville, CA	1,674,784
Vallejo, CA	3,514,495
Visalia, CA	2,015,155
Watsonville, CA	1,496,998
Yuba City, CA	1,562,478
Yuma, AZ--CA	12,904
COLORADO	$10,437,452
Boulder, CO	2,883,681
Grand Junction, CO	1,159,023
Greeley, CO	1,516,782
Lafayette--Louisville, CO	952,658
Longmont, CO	2,122,926
Pueblo, CO	1,802,382
CONNECTICUT	$21,007,681
Danbury, CT--NY	8,150,372
Norwich--New London, CT	3,525,075
Waterbury, CT	9,332,234
DELAWARE	$1,529,008
Dover, DE	1,489,289
Salisbury, MD--DE	39,719
FLORIDA	$25,033,250
Brooksville, FL	1,143,453
Deltona, FL	1,854,228
Fort Walton Beach, FL	1,884,327
Gainesville, FL	3,052,995
Kissimmee, FL	2,421,544
Lady Lake, FL	534,310
Lakeland, FL	2,787,785
Leesburg--Eustis, FL	1,419,125
North Port--Punta Gorda, FL	1,427,773
Ocala, FL	1,184,325
Panama City, FL	1,515,753
St. Augustine, FL	654,126
Titusville, FL	1,231,415
Vero Beach--Sebastian, FL	1,454,978
Winter Haven, FL	1,848,033
Zephyrhills, FL	619,080
GEORGIA	$9,555,500
Albany, GA	1,141,867
Athens-Clarke County, GA	1,236,269
Brunswick, GA	577,202
Dalton, GA	618,547
Gainesville, GA	928,944
Hinesville, GA	667,293
Macon, GA	1,715,866
Rome, GA	974,316
Valdosta, GA	702,641
Warner Robins, GA	992,555

FEDERAL TRANSIT ADMINISTRATION

TABLE 3

REVISED FY 2009 SECTION 5307 AND SECTION 5340 URBANIZED AREA APPORTIONMENTS

(Apportionment amount is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

(Note: In accordance with language in the SAFETEA-LU conference report, an urbanized area apportionments for Section 5307 and Section 5340 were combined to show a single amount. An area's apportionment amount includes regular Section 5307 funds, Small Transit Intensive Cities funds, and Growing States and High Density States formula funds, as appropriate.)

URBANIZED AREA/STATE	APPORTIONMENT
HAWAII	$2,479,241
Kailua (Honolulu County)--Kaneohe, HI	2,479,241
IDAHO	$4,691,295
Coeur d'Alene, ID	971,793
Idaho Falls, ID	952,499
Lewiston, ID--WA	412,047
Nampa, ID	1,340,250
Pocatello, ID	1,014,706
ILLINOIS	$12,015,119
Alton, IL	1,051,419
Beloit, WI--IL	163,898
Bloomington--Normal, IL	1,885,781
Champaign, IL	2,780,269
Danville, IL	672,368
Decatur, IL	1,420,997
DeKalb, IL	953,346
Dubuque, IA--IL	33,265
Kankakee, IL	953,841
Springfield, IL	2,099,935
INDIANA	$12,411,840
Anderson, IN	1,168,877
Bloomington, IN	1,857,533
Columbus, IN	670,477
Elkhart, IN--MI	1,627,600
Kokomo, IN	962,020
Lafayette, IN	2,523,929
Michigan City, IN--MI	888,384
Muncie, IN	1,680,182
Terre Haute, IN	1,032,838
IOWA	$9,194,264
Ames, IA	1,442,590
Cedar Rapids, IA	2,402,596
Dubuque, IA--IL	880,833
Iowa City, IA	1,817,339
Sioux City, IA--NE--SD	1,170,342
Waterloo, IA	1,480,564
KANSAS	$3,552,774
Lawrence, KS	1,599,562
St. Joseph, MO--KS	14,027
Topeka, KS	1,939,185
KENTUCKY	$3,300,974
Bowling Green, KY	715,625
Clarksville, TN--KY	309,410
Huntington, WV--KY--OH	644,407
Owensboro, KY	863,935
Radcliff--Elizabethtown, KY	767,597
LOUISIANA	$9,749,533
Alexandria, LA	892,670
Houma, LA	1,548,433
Lafayette, LA	2,353,031
Lake Charles, LA	1,556,470
Mandeville--Covington, LA	716,649
Monroe, LA	1,753,876
Slidell, LA	928,404

FEDERAL TRANSIT ADMINISTRATION

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URBANIZED AREA/STATE	APPORTIONMENT
MAINE	$4,476,862
Bangor, ME	848,064
Dover--Rochester, NH--ME	100,965
Lewiston, ME	1,036,680
Portland, ME	2,394,213
Portsmouth, NH--ME	96,940
MARYLAND	$12,576,353
Aberdeen--Havre de Grace--Bel Air, MD	3,342,632
Cumberland, MD-WV-PA	934,382
Frederick, MD	2,206,746
Hagerstown, MD--WV--PA	1,660,737
Salisbury, MD--DE	1,317,462
St. Charles, MD	1,690,358
Westminster, MD	1,424,036
MASSACHUSETTS	$7,276,434
Leominster--Fitchburg, MA	2,630,972
Nashua, NH--MA	582
New Bedford, MA	3,306,577
Pittsfield, MA	1,338,303
MICHIGAN	$14,917,402
Battle Creek, MI	952,497
Bay City, MI	1,246,287
Benton Harbor--St. Joseph, MI	706,480
Elkhart, IN--MI	20,233
Holland, MI	1,214,512
Jackson, MI	1,104,305
Kalamazoo, MI	2,661,778
Michigan City, IN--MI	5,788
Monroe, MI	822,394
Muskegon, MI	1,865,324
Port Huron, MI	1,324,832
Saginaw, MI	1,860,531
South Lyon--Howell--Brighton, MI	1,132,441
MINNESOTA	$5,735,741
Duluth, MN--WI	1,476,390
Fargo, ND--MN	565,336
Grand Forks, ND--MN	120,644
La Crosse, WI--MN	87,817
Rochester, MN	1,735,856
St. Cloud, MN	1,749,698
MISSISSIPPI	$1,409,637
Hattiesburg, MS	747,872
Pascagoula, MS	661,765
MISSOURI	$5,162,817
Columbia, MO	1,733,443
Jefferson City, MO	626,408
Joplin, MO	806,322
Lee's Summit, MO	824,870
St. Joseph, MO--KS	1,171,774
MONTANA	$3,268,171
Billings, MT	1,422,040
Great Falls, MT	923,359
Missoula, MT	922,772

FEDERAL TRANSIT ADMINISTRATION

TABLE 3

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URBANIZED AREA/STATE	APPORTIONMENT
N. MARIANA ISLANDS	$805,729
Saipan, MP	805,729
NEBRASKA	$227,939
Sioux City, IA--NE--SD	227,939
NEVADA	$822,220
Carson City, NV	822,220
NEW HAMPSHIRE	$5,815,009
Dover--Rochester, NH--ME	1,082,919
Manchester, NH	1,954,921
Nashua, NH--MA	2,316,131
Portsmouth, NH--ME	461,038
NEW JERSEY	$4,563,188
Hightstown, NJ	1,649,907
Vineland, NJ	1,838,644
Wildwood--North Wildwood--Cape May, NJ	1,074,637
NEW MEXICO	$3,060,485
Farmington, NM	595,177
Las Cruces, NM	1,291,703
Santa Fe, NM	1,173,605
NEW YORK	$11,810,237
Binghamton, NY--PA	3,115,385
Danbury, CT--NY	93,687
Elmira, NY	1,416,713
Glens Falls, NY	917,455
Ithaca, NY	1,443,676
Kingston, NY	843,944
Middletown, NY	820,557
Saratoga Springs, NY	1,056,265
Utica, NY	2,102,555
NORTH CAROLINA	$13,015,823
Burlington, NC	1,124,830
Concord, NC	1,302,225
Gastonia, NC	1,568,090
Goldsboro, NC	666,901
Greenville, NC	1,114,121
Hickory, NC	1,904,128
High Point, NC	1,566,885
Jacksonville, NC	1,150,264
Rocky Mount, NC	746,839
Wilmington, NC	1,871,540
NORTH DAKOTA	$4,089,523
Bismarck, ND	1,341,241
Fargo, ND--MN	1,859,031
Grand Forks, ND--MN	889,251
OHIO	$10,551,310
Huntington, WV--KY--OH	421,804
Lima, OH	904,304
Lorain--Elyria, OH	2,739,422
Mansfield, OH	966,161
Middletown, OH	1,261,424
Newark, OH	1,219,836
Parkersburg, WV--OH	296,814
Sandusky, OH	640,163

FEDERAL TRANSIT ADMINISTRATION

TABLE 3

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URBANIZED AREA/STATE	APPORTIONMENT
Springfield, OH	1,222,071
Weirton, WV--Steubenville, OH--PA	509,651
Wheeling, WV--OH	369,660
OKLAHOMA	$2,539,410
Fort Smith, AR--OK	26,377
Lawton, OK	1,105,484
Norman, OK	1,407,549
OREGON	$3,352,209
Bend, OR	706,460
Corvallis, OR	794,332
Longview, WA--OR	18,928
Medford, OR	1,832,489
PENNSYLVANIA	$16,547,087
Altoona, PA	1,164,276
Binghamton, NY--PA	50,762
Cumberland, MD-WV-PA	158
Erie, PA	3,200,517
Hagerstown, MD--WV--PA	14,553
Hazleton, PA	663,629
Johnstown, PA	1,394,642
Lebanon, PA	1,167,436
Monessen, PA	961,795
Pottstown, PA	837,878
State College, PA	2,106,791
Uniontown--Connellsville, PA	941,062
Weirton, WV--Steubenville, OH--PA	3,155
Williamsport, PA	1,386,580
York, PA	2,653,853
PUERTO RICO	$12,567,735
Arecibo, PR	1,673,364
Fajardo, PR	1,237,340
Florida--Barceloneta--Bajadero, PR	744,448
Guayama, PR	972,462
Juana Diaz, PR	653,210
Mayaguez, PR	1,513,548
Ponce, PR	3,331,470
San German--Cabo Rojo--Sabana Grande, PR	1,170,876
Yauco, PR	1,271,017
RHODE ISLAND	0
SOUTH CAROLINA	$7,509,249
Anderson, SC	740,918
Florence, SC	1,141,077
Mauldin--Simpsonville, SC	910,250
Myrtle Beach, SC	1,370,299
Rock Hill, SC	763,333
Spartanburg, SC	1,821,730
Sumter, SC	761,642
SOUTH DAKOTA	$2,955,921
Rapid City, SD	947,286
Sioux City, IA--NE--SD	38,855
Sioux Falls, SD	1,969,780
TENNESSEE	$7,781,483
Bristol, TN--Bristol, VA	401,725
Clarksville, TN--KY	1,168,216

FEDERAL TRANSIT ADMINISTRATION

TABLE 3

REVISED FY 2009 SECTION 5307 AND SECTION 5340 URBANIZED AREA APPORTIONMENTS

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URBANIZED AREA/STATE	APPORTIONMENT
Cleveland, TN	644,075
Jackson, TN	958,797
Johnson City, TN	1,108,264
Kingsport, TN--VA	971,892
Morristown, TN	600,368
Murfreesboro, TN	1,928,146
TEXAS	$40,583,168
Abilene, TX	1,551,051
Amarillo, TX	2,695,179
Beaumont, TX	1,779,418
Brownsville, TX	3,161,595
College Station--Bryan, TX	2,529,055
Galveston, TX	1,611,737
Harlingen, TX	1,471,980
Killeen, TX	2,632,122
Lake Jackson--Angleton, TX	1,045,145
Laredo, TX	4,014,755
Longview, TX	955,543
McKinney, TX	748,308
Midland, TX	1,419,128
Odessa, TX	1,557,837
Port Arthur, TX	1,752,150
San Angelo, TX	1,184,647
Sherman, TX	1,007,681
Temple, TX	925,529
Texarkana, TX--Texarkana, AR	533,656
Texas City, TX	1,211,979
The Woodlands, TX	1,265,940
Tyler, TX	1,314,192
Victoria, TX	687,173
Waco, TX	2,193,578
Wichita Falls, TX	1,333,790
UTAH	$2,443,262
Logan, UT	1,608,029
St. George, UT	835,233
VERMONT	$1,744,431
Burlington, VT	1,744,431
VIRGIN ISLANDS	974,444 1/
VIRGINIA	$10,726,306
Blacksburg, VA	1,372,414
Bristol, TN--Bristol, VA	234,250
Charlottesville, VA	1,574,348
Danville, VA	621,188
Fredericksburg, VA	1,161,844
Harrisonburg, VA	1,132,927
Kingsport, TN--VA	18,353
Lynchburg, VA	1,411,715
Roanoke, VA	2,536,290
Winchester, VA	662,977
WASHINGTON	$16,617,325
Bellingham, WA	1,811,281
Bremerton, WA	2,717,842
Kennewick--Richland, WA	2,847,899
Lewiston, ID--WA	240,249
Longview, WA--OR	852,181
Marysville, WA	1,536,218
Mount Vernon, WA	1,055,563
Olympia--Lacey, WA	2,461,967

FEDERAL TRANSIT ADMINISTRATION

TABLE 3

REVISED FY 2009 SECTION 5307 AND SECTION 5340 URBANIZED AREA APPORTIONMENTS

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URBANIZED AREA/STATE	APPORTIONMENT
Wenatchee, WA	1,331,231
Yakima, WA	1,762,894
WEST VIRGINIA	$6,834,141
Charleston, WV	2,521,847
Cumberland, MD-WV-PA	26,211
Hagerstown, MD--WV--PA	343,051
Huntington, WV--KY--OH	1,139,953
Morgantown, WV	971,601
Parkersburg, WV--OH	774,254
Weirton, WV--Steubenville, OH--PA	353,698
Wheeling, WV--OH	703,526
WISCONSIN	$19,240,281
Appleton, WI	2,879,591
Beloit, WI--IL	604,911
Duluth, MN--WI	466,511
Eau Claire, WI	1,398,904
Fond du Lac, WI	750,528
Green Bay, WI	2,702,467
Janesville, WI	946,186
Kenosha, WI	1,864,938
La Crosse, WI--MN	1,476,192
Oshkosh, WI	1,536,023
Racine, WI	2,093,013
Sheboygan, WI	1,354,124
Wausau, WI	1,166,893
WYOMING	$1,750,792
Casper, WY	821,997
Cheyenne, WY	928,795
Total	**$471,478,943**

1/ Language in section 5307(l) of SAFETEA-LU directs that the Virgin Islands be treated as an urbanized area.

FEDERAL TRANSIT ADMINISTRATION

TABLE 4

FY 2009 SECTION 5307 APPORTIONMENT FORMULA

Distribution of Available Funds

Of the funds made available to the Section 5307 program, a one percent takedown is authorized for Small Transit Intensive Cities. This amount is apportioned to the Governors based on a separate formula that uses criteria related to specific service performance categories.

The remaining funds are apportioned to small, medium, and large sized urbanized areas (UZAs). 9.32% is made available for UZAs 50,000-199,999 in population, and 90.68% to UZAs 200,000 or more in population.

UZA Population and Weighting Factors

50,000-199,999 in population : 9.32% of available Section 5307 funds
(Apportioned to Governors)

50% apportioned based on population

50% apportioned based on population x population density

200,000 and greater in population: 90.68% of available Section 5307 funds
(Apportioned to UZAs)

33.29% (Fixed Guideway Tier*)

95.61% (Non-incentive Portion of Tier)

--- at least 0.75% to each UZA with commuter rail and pop. 750,000 or greater

60% - fixed guideway revenue vehicle miles

40% - fixed guideway route miles

4.39% ("Incentive" Portion of Tier)

-- at least 0.75% to each UZA with commuter rail and pop. 750,000 or greater

-- fixed guideway passenger miles x fixed guideway passenger miles/operating cost

66.71% ("Bus" Tier)

90.8% (Non-incentive Portion of Tier)

73.39% for UZAs with population 1,000,000 or greater

50% - bus revenue vehicle miles

25% - population

25% - population x population density

26.61% for UZAs pop. < 1,000,000

50% - bus revenue vehicle miles

25% - population

25% - population x density

9.2% ("Incentive" Portion of Tier)

-- bus passenger miles x bus passenger miles/operating cost

* Includes all fixed guideway modes, such as heavy rail, commuter rail, light rail, trolleybus, aerial tramway, inclined plane, cable car, automated guideway transit, ferryboats, exclusive busways, and HOV lanes.

FEDERAL TRANSIT ADMINISTRATION

TABLE 5

REVISED FISCAL YEAR 2009 FORMULA PROGRAMS APPORTIONMENT DATA UNIT VALUES

(Apportionment unit values are is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

	APPORTIONMENT DATA UNIT VALUE
Section 5307 Urbanized Area Formula Program - Bus Tier	
Urbanized Areas Over 1,000,000:	
Population	$3.46694666
Population x Density	$0.00087968
Bus Revenue Vehicle Mile	$0.43666757
Urbanized Areas Under 1,000,000:	
Population	$3.17732013
Population x Density	$0.00139020
Bus Revenue Vehicle Mile	$0.56775850
Bus Incentive (PM denotes Passenger Mile):	
Bus PM x Bus PM = Operating Cost	$0.00936122
Section 5307 Urbanized Area Formula Program - Fixed Guideway Tier	
Fixed Guideway Revenue Vehicle Mile	$0.64194775
Fixed Guideway Route Mile	$33,944
Commuter Rail Floor	$8,868,967
Fixed Guideway Incentive:	
Fixed Guideway PM x Fixed Guideway PM = Operating Cost	$0.00066324
Commuter Rail Incentive Floor	$407,225
Section 5307 Urbanized Area Formula Program - Areas Under 200,000	
Population	$6.39049906
Population x Density	$0.00317892
Section 5307 Small Transit Intensive Cities	
For Each Qualifying Performance Category	$140,553
Section 5311 Urbanized Area Formula Program - Areas Under 50,000	
Population	$3.91816730

Section 5309 Capital Program - Fixed Guideway Modernization

	Tier 2	Tier 3	Tier 4	Tier 5	Tier 6	Tier 7
Legislatively Specified Areas:						
Revenue Vehicle Mile	$0.03043443	-------	$0.13671435	$0.03374096	$0.02224679	$0.28543929
Route Mile	$2,122.43	-------	$7,825.39	$2,626.53	$1,731.78	$22,219.70
Other Urbanized Areas:						
Revenue Vehicle Mile	$0.16288440	$0.00576164	$0.13671435	$0.06278444	$0.05125260	$0.98640120
Route Mile	$4,758.70	$168.33	$7,825.39	$1,837.99	$1,500.40	$28,876.57

Notes:

1. Unit values for Section 5307 do not take into account Section 5340 funding added to the program.

2. The unit value for Section 5311 is based on the total nonurbanized/rural population for the States and territories. It does not take into account Section 5311 funds allocated based on land area in nonurbanized areas, or Section 5340 funding added to the program.

FEDERAL TRANSIT ADMINISTRATION

TABLE 5A

URBANIZED AREAS 200,000 OR MORE IN POPULATION ELIGIBLE TO USE SECTION 5307 FUNDS FOR OPERATING ASSISTANCE

State	2000 Census Urbanized Area Description	Population	FY 2002 Apportionment	FY 2009 Apportionment Operating Limitation a/
AL	Huntsville, AL	213,253	$1,677,473	$838,737
CA	Antioch, CA	217,591	$1,914,688	$957,344
CA	Indio--Cathedral City--Palm Springs, CA	254,856	$1,849,608	$924,804
	(Indio-Coachella, CA -- $621,797)			
	(Palm Springs, CA -- $1,227,811)			
CA	Lancaster--Palmdale, CA	263,532	$2,206,544	$1,103,272
CA	Santa Rosa, CA	285,408	$2,636,339	$1,318,170
CA	Victorville--Hesperia--Apple Valley, CA	200,436	$1,311,837	$655,919
CA	Temecula--Murrieta, CA	229,810	----------	$623,817
CO	Fort Collins, CO	206,757	$1,156,197	$578,099
CT	Bridgeport--Stamford, CT--NY	888,890	$9,676,425	$4,838,213
	(Stamford, CT-NY -- $5,332,860)			
	(Norwalk, CT -- $4,343,565)			
CT	Hartford, CT	851,535	$2,824,453	$1,412,227
	(Bristol, CT -- $983,277)			
	(New Britain, CT -- $1,841,176)			
FL	Port St. Lucie, FL	270,774	$1,982,206	$991,103
	(Fort Pierce, FL -- $1,142,501)			
	(Stuart, FL -- $839,705)			
FL	Bonita Springs--Naples, FL	221,251	$954,953	$477,477
FL	Tallahassee, FL	204,260	$1,617,975	$808,988
GA	Savannah, GA	208,886	$1,824,225	$912,113
ID	Boise City, ID	272,625	$2,021,464	$1,010,732
IL	Round Lake Beach--McHenry--Grayslake, IL--WI	226,848	$1,088,609	$544,305
IL	Chicago, IL--IN	8,307,904	$6,599,240	$3,299,620
	(Aurora, IL -- $2,290,318)			
	(Crystal Lake, IL -- $746,464)			
	(Elgin, IL -- $1,652,124)			
	(Joliet, IL -- $1,910,334)			
IN	Evansville, IN--KY	211,989	$2,251,898	$1,125,949
MA	Barnstable Town, MA	243,667	$538,120	$269,060
MA	Boston, MA--NH--RI	4,032,484	$4,760,673	$2,380,337
	(Brockton, MA -- $1,906,558)			
	(Lowell, MA-NH -- $2,366,926)			
	(Taunton, MA -- $487,189)			
MD	Baltimore, MD	2,076,354	$858,335	$429,168
	(Annapolis, MD -- $858,335)			
MO	Springfield, MO	215,004	$1,748,930	$874,465
MS	Gulfport--Biloxi, MS	205,754	$1,687,127	$843,564
NC	Winston-Salem, NC	299,290	$1,811,413	$905,707
NC	Asheville, NC	221,570	$968,044	$484,022
NC	Greensboro, NC	267,884	$2,211,540	$1,105,770
NE	Lincoln, NE	226,582	$2,658,761	$1,329,381
NJ	Atlantic City, NJ	227,180	$1,842,968	$921,484
NY	Poughkeepsie--Newburgh, NY	351,982	$2,225,147	$1,112,574
	(Poughkeepsie, NY -- $1,507,504)			
	(Newburgh, NY -- $717,643)			

FEDERAL TRANSIT ADMINISTRATION

TABLE 5A

URBANIZED AREAS 200,000 OR MORE IN POPULATION ELIGIBLE TO USE SECTION 5307 FUNDS FOR OPERATING ASSISTANCE

State	2000 Census Urbanized Area Description	Population	FY 2002 Apportionment	FY 2009 Apportionment Operating Limitation a/
OH	Youngstown, OH--PA	417,437	$465,043	$232,522
	(Sharon, PA-OH -- $465,043)			
OH	Cincinnati, OH--KY--IN	1,503,262	$1,384,842	$692,421
	(Hamilton, OH -- $1,384,842)			
OR	Eugene, OR	224,049	$2,559,936	$1,279,968
OR	Salem, OR	207,229	$2,070,221	$1,035,111
PA	Reading, PA	240,264	$2,636,837	$1,318,419
PA	Lancaster, PA	323,554	$2,258,871	$1,129,436
PR	Aguadilla--Isabela--San Sebastian, PR	299,086	$1,148,984	$574,492
PR	San Juan, PR	2,216,616	$5,925,223	$2,962,612
	(Caguas, PR -- $2,811,557)			
	(Cayey, PR -- $831,273)			
	(Humacao, PR -- $719,451)			
	(Vega Baja-Manati, PR -- $1,562,942)			
RI	Providence, RI--MA	1,174,548	$2,695,482	$1,347,741
	(Newport, RI -- $644,329)			
	(Fall River, MA-RI -- $2,051,153)			
TX	Lubbock, TX	202,225	$1,939,424	$969,712
TX	Denton--Lewisville, TX	299,823	$1,291,722	$645,861
	(Denton, TX -- $599,570)			
	(Lewisville, TX -- $692,152)			
VA	Richmond, VA	818,836	$1,016,957	$508,479
	(Petersburg, VA -- $1,016,957)			

a/ The amount shown represents the amount allowable based on funding provided in the Omnibus Appropriations Act, 2009 - P.L. 111-8 and SAFETEA-LU technical corrections. In cases where an urbanized area's FY 2009 available apportionment is less than the allowable amount, FTA will set the operating assistance budget, in TEAM-Web, at an amount not to exceed the FY 2009 available apportionment.

Note: For informational purposes, the affected 1990 census small urbanized areas (less than 200,000 population) that were merged into an existing urbanized area of at least 200,000 population are shown in parentheses immediately below the eligible 2000 census urbanized area. FTA is unable to identify the urbanized areas which now incorporate rural areas that received Section 5311 in FY 2002 and they are not included in this table.

FEDERAL TRANSIT ADMINISTRATION

Table 6

REVISED FY 2009 SMALL TRANSIT INTENSIVE CITIES PERFORMANCE DATA and APPORTIONMENTS

(Apportionment amount is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $140,553 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.409**	**107.800**	**11.777**	**0.772**	**89.604**	**15.553**		
Alabama	Anniston, AL	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Alabama	Auburn, AL	0.903	15.309	4.544	0.268	4.104	1.140	0	0
Alabama	Decatur, AL	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Alabama	Dothan, AL	0.715	10.418	10.885	0.747	7.785	2.425	0	0
Alabama	Florence, AL	1.000	13.146	8.335	0.634	8.335	2.806	0	0
Alabama	Gadsden, AL	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Alabama	Montgomery, AL	3.439	56.080	8.077	0.495	27.776	5.520	0	0
Alabama	Tuscaloosa, AL	2.924	33.590	2.994	0.261	8.755	1.648	0	0
Alaska	Fairbanks, AK	4.463	81.220	10.100	0.555	45.081	6.257	0	0
Arizona	Avondale, AZ	4.900	65.764	2.844	0.212	13.935	3.513	0	0
Arizona	Flagstaff, AZ	3.107	44.563	11.042	0.770	34.311	13.212	0	0
Arizona	Prescott, AZ	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arizona	Yuma, AZ--CA	1.956	27.386	10.930	0.781	21.384	3.298	1	140,553
Arkansas	Fayetteville--Springdale, AR	2.914	36.446	5.184	0.414	15.102	8.308	0	0
Arkansas	Fort Smith, AR--OK	2.103	28.060	4.540	0.340	9.546	2.119	0	0
Arkansas	Hot Springs, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arkansas	Jonesboro, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arkansas	Pine Bluff, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Atascadero--El Paso de Robles (Paso Robles), CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Camarillo, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Chico, CA	3.944	55.819	17.307	1.223	68.262	13.525	2	281,106
California	Davis, CA	8.412	110.992	19.110	1.448	160.760	53.302	6	843,316
California	El Centro, CA	0.000	0.000	15.358	1.716	0.000	7.884	2	281,106
California	Fairfield, CA	2.600	48.711	17.329	0.925	45.050	9.330	2	281,106
California	Gilroy--Morgan Hill, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Hanford, CA	0.559	20.223	67.064	1.855	37.515	11.380	2	281,106
California	Hemet, CA	1.881	36.115	5.453	0.284	10.258	1.045	0	0
California	Livermore, CA	3.609	47.802	5.552	0.419	20.036	4.009	0	0
California	Lodi, CA	1.591	16.485	6.190	0.597	9.848	3.851	0	0
California	Lompoc, CA	9.137	137.500	9.238	0.614	84.409	7.107	2	281,106
California	Madera, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Manteca, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

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State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $140,553 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.409**	**107.800**	**11.777**	**0.772**	**89.604**	**15.553**		
California	Merced, CA	1.729	30.508	17.055	0.966	29.482	11.688	2	281,106
California	Napa, CA	2.935	39.789	7.531	0.556	22.104	5.610	0	0
California	Petaluma, CA	3.310	45.406	6.730	0.491	22.273	4.977	0	0
California	Porterville, CA	3.903	57.983	7.384	0.497	28.819	7.915	0	0
California	Redding, CA	3.175	49.862	10.740	0.684	34.098	7.140	0	0
California	Salinas, CA	6.720	107.059	7.108	0.446	47.765	9.553	1	140,553
California	San Luis Obispo, CA	6.482	130.848	26.869	1.331	174.162	25.255	6	843,316
California	Santa Barbara, CA	10.892	149.740	15.303	1.113	166.686	39.503	6	843,316
California	Santa Clarita, CA	12.691	235.375	15.025	0.810	190.676	15.964	6	843,316
California	Santa Cruz, CA	9.320	132.998	24.058	1.686	224.220	35.388	6	843,316
California	Santa Maria, CA	1.832	27.597	7.485	0.497	13.708	9.441	0	0
California	Seaside--Monterey--Marina, CA	6.928	109.504	17.069	1.080	118.266	20.708	6	843,316
California	Simi Valley, CA	3.591	50.736	6.312	0.447	22.666	4.277	0	0
California	Tracy, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Turlock, CA	2.706	36.599	3.634	0.269	9.832	2.576	0	0
California	Vacaville, CA	5.518	100.593	0.767	0.042	4.230	0.683	0	0
California	Vallejo, CA	3.927	62.928	10.422	0.650	40.926	7.502	0	0
California	Visalia, CA	4.865	62.174	9.777	0.765	47.564	11.811	0	0
California	Watsonville, CA	8.072	125.248	4.058	0.262	32.754	5.872	2	281,106
California	Yuba City, CA	5.788	88.300	10.539	0.691	60.998	8.481	0	0
Colorado	Boulder, CO	10.198	142.711	13.802	0.986	140.754	26.371	6	843,316
Colorado	Grand Junction, CO	4.053	62.326	8.169	0.531	33.112	7.215	0	0
Colorado	Greeley, CO	3.410	41.128	5.826	0.483	19.864	5.374	0	0
Colorado	Lafayette--Louisville, CO	6.895	96.362	8.623	0.617	59.456	11.011	1	140,553
Colorado	Longmont, CO	8.830	118.692	11.844	0.881	104.579	19.204	6	843,316
Colorado	Pueblo, CO	4.143	59.384	6.285	0.439	26.043	8.330	0	0
Connecticut	Danbury, CT--NY	29.367	765.557	33.219	1.274	975.542	41.050	6	843,316
Connecticut	Norwich--New London, CT	6.099	122.151	9.128	0.456	55.666	6.676	1	140,553
Connecticut	Waterbury, CT	28.983	676.498	27.320	1.170	791.820	38.318	6	843,316
Delaware	Dover, DE	3.151	54.055	27.928	1.628	87.989	12.117	2	281,106
Florida	Brooksville, FL	1.679	32.069	5.399	0.283	9.064	1.708	0	0
Florida	Deltona, FL	2.940	45.206	9.211	0.599	27.083	4.888	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

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State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $140,553 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.409**	**107.800**	**11.777**	**0.772**	**89.604**	**15.553**		
Florida	Fort Walton Beach, FL	1.194	17.274	7.822	0.540	9.336	1.699	0	0
Florida	Gainesville, FL	9.985	113.962	19.087	1.672	190.579	56.272	6	843,316
Florida	Kissimmee, FL	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Florida	Lady Lake, FL	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Florida	Lakeland, FL	4.136	66.870	12.917	0.799	53.428	11.021	2	281,106
Florida	Leesburg--Eustis, FL	0.952	14.598	21.041	1.372	20.031	2.689	2	281,106
Florida	North Port--Punta Gorda, FL	1.135	18.609	4.259	0.260	4.833	0.630	0	0
Florida	Ocala, FL	2.405	35.355	4.214	0.287	10.136	3.209	0	0
Florida	Panama City, FL	3.016	49.818	6.984	0.423	21.063	3.797	0	0
Florida	St. Augustine, FL	1.817	34.791	8.751	0.457	15.902	2.264	0	0
Florida	Titusville, FL	6.863	222.726	18.800	0.579	129.021	4.238	4	562,211
Florida	Vero Beach--Sebastian, FL	3.287	37.789	4.585	0.399	15.070	2.732	0	0
Florida	Winter Haven, FL	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Florida	Zephyrhills, FL	5.288	88.835	5.196	0.309	27.476	4.045	0	0
Georgia	Albany, GA	5.670	90.960	6.988	0.436	39.625	8.274	0	0
Georgia	Athens-Clarke County, GA	5.987	69.280	8.007	0.692	47.939	14.431	0	0
Georgia	Brunswick, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Dalton, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Gainesville, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Hinesville, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Macon, GA	4.490	64.351	8.237	0.575	36.983	7.965	0	0
Georgia	Rome, GA	7.502	97.482	10.216	0.786	76.638	11.198	2	281,106
Georgia	Valdosta, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Warner Robins, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Hawaii	Kailua (Honolulu County)--Kaneohe, HI	10.288	141.002	2.030	0.148	20.881	4.493	2	281,106
Idaho	Coeur d'Alene, ID	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Idaho	Idaho Falls, ID	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Idaho	Lewiston, ID--WA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Idaho	Nampa, ID	2.886	59.439	4.939	0.240	14.256	1.336	0	0
Idaho	Pocatello, ID	3.665	48.984	10.615	0.794	38.907	7.775	1	140,553
Illinois	Alton, IL	5.029	89.697	4.172	0.234	20.983	2.818	0	0
Illinois	Bloomington--Normal, IL	4.623	66.449	10.174	0.708	47.033	12.620	0	0

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	Average for UZAs with populations 200,000 - 999,999	**6.409**	**107.800**	**11.777**	**0.772**	**89.604**	**15.553**		
Illinois	Champaign, IL	8.179	94.407	23.290	2.018	190.479	74.875	5	702,764
Illinois	Danville, IL	4.317	75.251	8.456	0.485	36.509	8.492	0	0
Illinois	Decatur, IL	3.610	49.176	11.180	0.821	40.358	12.012	1	140,553
Illinois	DeKalb, IL	1.844	30.375	9.972	0.606	18.393	2.200	0	0
Illinois	Kankakee, IL	5.346	73.248	9.956	0.727	53.228	6.557	0	0
Illinois	Springfield, IL	2.623	32.228	9.492	0.772	24.895	8.622	1	140,553
Indiana	Anderson, IN	1.836	23.061	4.017	0.320	7.375	1.804	0	0
Indiana	Bloomington, IN	6.933	76.367	12.048	1.094	83.529	28.187	4	562,211
Indiana	Columbus, IN	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Indiana	Elkhart, IN--MI	2.029	31.853	5.667	0.361	11.498	2.412	0	0
Indiana	Kokomo, IN	1.163	11.409	11.308	1.153	13.157	2.846	1	140,553
Indiana	Lafayette, IN	10.366	116.834	11.702	1.038	121.298	37.100	5	702,764
Indiana	Michigan City, IN--MI	0.000	0.000			0.000		0	0
Indiana	Muncie, IN	4.838	63.963	13.297	1.006	64.333	23.086	3	421,659
Indiana	Terre Haute, IN	1.228	12.582	4.859	0.474	5.966	2.880	0	0
Iowa	Ames, IA	5.611	59.612	21.594	2.033	121.172	85.048	4	562,211
Iowa	Cedar Rapids, IA	3.636	50.931	9.533	0.681	34.665	7.797	0	0
Iowa	Dubuque, IA--IL	4.019	47.976	8.715	0.730	35.027	10.450	0	0
Iowa	Iowa City, IA	5.881	66.054	21.581	1.922	126.929	69.875	4	562,211
Iowa	Sioux City, IA--NE--SD	4.076	47.842	5.771	0.492	23.524	8.972	0	0
Iowa	Waterloo, IA	1.002	16.675	8.398	0.505	8.415	4.396	0	0
Kansas	Lawrence, KS	1.968	24.446	11.591	0.933	22.811	8.972	1	140,553
Kansas	Topeka, KS	4.239	62.343	10.170	0.691	43.109	12.025	0	0
Kentucky	Bowling Green, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Kentucky	Owensboro, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Kentucky	Radcliff--Elizabethtown, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Alexandria, LA	5.006	76.246	7.357	0.483	36.827	9.023	0	0
Louisiana	Houma, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Lafayette, LA	8.636	119.515	4.655	0.336	40.202	8.979	2	281,106
Louisiana	Lake Charles, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Mandeville--Covington, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Monroe, LA	14.893	205.613	6.342	0.459	94.453	10.085	3	421,659

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	Average for UZAs with populations 200,000 - 999,999	**6.409**	**107.800**	**11.777**	**0.772**	**89.604**	**15.553**		
Louisiana	Slidell, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Maine	Bangor, ME	4.852	65.977	10.821	0.796	52.502	13.356	1	140,553
Maine	Lewiston, ME	1.560	21.140	15.775	1.164	24.603	7.058	2	281,106
Maine	Portland, ME	6.998	87.915	9.608	0.765	67.237	13.491	1	140,553
Maryland	Aberdeen--Havre de Grace--Bel Air, MD	1.865	33.796	4.110	0.227	7.667	1.543	0	0
Maryland	Cumberland, MD--WV--PA	5.133	83.977	11.411	0.697	58.574	6.381	0	0
Maryland	Frederick, MD	3.302	43.358	9.200	0.701	30.374	5.957	0	0
Maryland	Hagerstown, MD--WV--PA	2.705	41.215	3.992	0.262	10.795	2.892	0	0
Maryland	Salisbury, MD--DE	0.419	1.139	36.148	13.283	15.136	6.820	2	281,106
Maryland	St. Charles, MD	3.012	63.833	16.487	0.778	49.651	6.409	2	281,106
Maryland	Westminster, MD	1.105	13.582	12.300	1.001	13.593	2.254	2	281,106
Massachusetts	Leominster--Fitchburg, MA	3.323	37.703	19.053	1.679	63.303	9.007	2	281,106
Massachusetts	New Bedford, MA	3.000	36.224	6.331	0.524	18.995	6.635	0	0
Massachusetts	Pittsfield, MA	2.710	38.009	21.645	1.543	58.662	10.290	2	281,106
Michigan	Battle Creek, MI	3.220	41.351	6.590	0.513	21.222	5.822	0	0
Michigan	Bay City, MI	2.251	39.856	20.347	1.149	45.805	8.251	2	281,106
Michigan	Benton Harbor--St. Joseph, MI	1.423	18.116	7.138	0.561	10.155	2.838	0	0
Michigan	Holland, MI	1.662	22.867	8.629	0.627	14.339	2.405	0	0
Michigan	Jackson, MI	1.998	31.169	9.821	0.630	19.626	6.303	0	0
Michigan	Kalamazoo, MI	4.231	51.109	11.410	0.945	48.277	16.027	2	281,106
Michigan	Monroe, MI	2.261	26.333	9.169	0.787	20.733	6.263	1	140,553
Michigan	Muskegon, MI	2.761	39.699	5.879	0.409	16.232	4.485	0	0
Michigan	Port Huron, MI	1.192	17.807	24.070	1.611	28.690	10.777	2	281,106
Michigan	Saginaw, MI	3.693	47.356	6.140	0.479	22.675	5.653	0	0
Michigan	South Lyon--Howell--Brighton, MI	0.000	0.000	6.662	0.333	0.000	0.893	0	0
Minnesota	Duluth, MN--WI	4.968	64.819	15.600	1.196	77.509	24.340	3	421,659
Minnesota	Rochester, MN	5.852	87.754	11.971	0.798	70.062	17.347	3	421,659
Minnesota	St. Cloud, MN	4.507	61.959	16.352	1.190	73.707	22.231	3	421,659
Mississippi	Hattiesburg, MS	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Mississippi	Pascagoula, MS	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Missouri	Columbia, MO	6.456	66.757	8.472	0.819	54.689	16.829	3	421,659
Missouri	Jefferson City, MO	1.822	26.569	10.519	0.721	19.165	8.168	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

REVISED FY 2009 SMALL TRANSIT INTENSIVE CITIES PERFORMANCE DATA and APPORTIONMENTS

(Apportionment amount is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $140,553 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.409**	**107.800**	**11.777**	**0.772**	**89.604**	**15.553**		
Missouri	Joplin, MO	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Missouri	Lee's Summit, MO	1.934	29.740	0.459	0.030	0.888	0.127	0	0
Missouri	St. Joseph, MO--KS	2.172	24.336	10.121	0.903	21.982	4.850	1	140,553
Montana	Billings, MT	3.572	48.749	7.583	0.556	27.083	7.740	0	0
Montana	Great Falls, MT	1.438	18.450	9.220	0.718	13.254	7.125	0	0
Montana	Missoula, MT	4.111	58.441	10.329	0.727	42.461	10.895	0	0
N. Mariana Islands	Saipan, MP	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Nevada	Carson City, NV	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New Hampshire	Dover--Rochester, NH--ME	10.957	202.964	4.616	0.249	50.582	2.861	2	281,106
New Hampshire	Manchester, NH	2.618	32.071	3.877	0.316	10.149	3.259	0	0
New Hampshire	Nashua, NH--MA	4.410	55.708	2.303	0.182	10.157	1.979	0	0
New Hampshire	Portsmouth, NH--ME	6.409	100.989	2.748	0.174	17.616	2.155	0	0
New Jersey	Hightstown, NJ	5.835	80.497	0.275	0.020	1.607	0.386	0	0
New Jersey	Vineland, NJ	1.000	15.560	7.122	0.458	7.122	1.388	0	0
New Jersey	Wildwood--North Wildwood--Cape May, NJ	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New Mexico	Farmington, NM	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New Mexico	Las Cruces, NM	4.060	46.081	5.854	0.516	23.766	7.568	0	0
New Mexico	Santa Fe, NM	2.752	24.242	10.214	1.160	28.110	8.385	1	140,553
New York	Binghamton, NY--PA	3.782	53.370	16.840	1.193	63.688	19.788	3	421,659
New York	Elmira, NY	3.103	60.682	15.869	0.811	49.234	10.365	2	281,106
New York	Glens Falls, NY	3.717	58.478	5.528	0.351	20.544	5.717	0	0
New York	Ithaca, NY	4.172	58.652	36.263	2.580	151.298	59.111	4	562,211
New York	Kingston, NY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New York	Middletown, NY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New York	Saratoga Springs, NY	7.781	122.538	8.049	0.511	62.628	8.861	2	281,106
New York	Utica, NY	2.680	34.305	10.446	0.816	27.997	10.312	1	140,553
North Carolina	Burlington, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Concord, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Gastonia, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Goldsboro, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Greenville, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Hickory, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

REVISED FY 2009 SMALL TRANSIT INTENSIVE CITIES PERFORMANCE DATA and APPORTIONMENTS

(Apportionment amount is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $140,553 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.409**	**107.800**	**11.777**	**0.772**	**89.604**	**15.553**		
North Carolina	High Point, NC	2.740	30.302	5.313	0.480	14.558	5.832	0	0
North Carolina	Jacksonville, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Rocky Mount, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Wilmington, NC	2.930	44.130	8.689	0.577	25.455	9.641	0	0
North Dakota	Bismarck, ND	1.075	14.585	12.354	0.910	13.275	3.960	2	281,106
North Dakota	Fargo, ND--MN	3.962	51.799	7.988	0.611	31.652	9.643	0	0
North Dakota	Grand Forks, ND--MN	0.897	12.713	10.594	0.747	9.499	5.079	0	0
Ohio	Lima, OH	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Ohio	Lorain--Elyria, OH	3.284	54.869	7.515	0.450	24.683	4.099	0	0
Ohio	Mansfield, OH	3.078	32.988	4.134	0.386	12.726	4.172	0	0
Ohio	Middletown, OH	4.714	68.374	2.785	0.192	13.128	2.651	0	0
Ohio	Newark, OH	0.903	15.199	21.883	1.300	19.762	3.800	2	281,106
Ohio	Sandusky, OH	1.272	18.078	6.831	0.481	8.687	1.714	0	0
Ohio	Springfield, OH	3.144	35.395	3.024	0.269	9.508	5.000	0	0
Ohio	Weirton, WV--Steubenville, OH--PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Oklahoma	Lawton, OK	3.193	47.066	6.656	0.452	21.254	3.934	0	0
Oklahoma	Norman, OK	4.897	53.963	6.124	0.556	29.992	13.193	0	0
Oregon	Bend, OR	0.000	0.000	6.451	0.619	0.000	5.208	0	0
Oregon	Corvallis, OR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Oregon	Medford, OR	2.012	29.283	7.709	0.530	15.507	7.772	0	0
Pennsylvania	Altoona, PA	4.101	53.557	6.844	0.524	28.068	8.556	0	0
Pennsylvania	Erie, PA	3.200	38.303	14.459	1.208	46.262	14.239	2	281,106
Pennsylvania	Hazleton, PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Pennsylvania	Johnstown, PA	6.997	78.071	9.675	0.867	67.689	16.564	3	421,659
Pennsylvania	Lebanon, PA	2.412	35.813	12.078	0.813	29.127	4.926	2	281,106
Pennsylvania	Monessen, PA	16.238	226.804	4.270	0.306	69.342	2.322	2	281,106
Pennsylvania	Pottstown, PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Pennsylvania	State College, PA	8.846	108.782	19.839	1.613	175.499	87.006	6	843,317
Pennsylvania	Uniontown--Connellsville, PA	1.143	18.431	23.140	1.436	26.458	4.133	2	281,106
Pennsylvania	Williamsport, PA	6.319	101.964	14.975	0.928	94.634	21.582	4	562,211
Pennsylvania	York, PA	3.453	45.557	13.455	1.020	46.458	10.879	2	281,106
Puerto Rico	Arecibo, PR	0.000	0.000	0.000	0.000	0.000	0.000	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

REVISED FY 2009 SMALL TRANSIT INTENSIVE CITIES PERFORMANCE DATA and APPORTIONMENTS

(Apportionment amount is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $140,553 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.409**	**107.800**	**11.777**	**0.772**	**89.604**	**15.553**		
Puerto Rico	Fajardo, PR	6.682	130.422	3.431	0.176	22.926	6.351	2	281,106
Puerto Rico	Florida--Barceloneta--Bajadero, PR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Puerto Rico	Guayama, PR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Puerto Rico	Juana Diaz, PR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Puerto Rico	Mayaguez, PR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Puerto Rico	Ponce, PR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Puerto Rico	San German--Cabo Rojo--Sabana Grande, PR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Puerto Rico	Yauco, PR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Anderson, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Florence, SC	2.369	55.225	44.339	1.902	105.030	7.894	3	421,659
South Carolina	Mauldin--Simpsonville, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Myrtle Beach, SC	1.925	26.400	7.215	0.526	13.886	2.996	0	0
South Carolina	Rock Hill, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Spartanburg, SC	3.220	45.838	12.164	0.854	39.168	5.255	2	281,106
South Carolina	Sumter, SC	4.387	98.246	11.723	0.524	51.436	4.254	0	0
South Dakota	Rapid City, SD	2.777	34.019	6.771	0.553	18.805	4.591	0	0
South Dakota	Sioux Falls, SD	4.183	55.243	10.158	0.769	42.492	7.484	0	0
Tennessee	Bristol, TN--Bristol, VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Clarksville, TN--KY	3.253	49.221	9.051	0.598	29.444	5.406	0	0
Tennessee	Cleveland, TN	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Jackson, TN	3.008	40.431	11.438	0.851	34.410	7.914	1	140,553
Tennessee	Johnson City, TN	3.741	40.173	5.140	0.479	19.232	5.197	0	0
Tennessee	Kingsport, TN--VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Morristown, TN	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Murfreesboro, TN	8.968	124.011	0.293	0.021	2.627	0.603	2	281,106
Texas	Abilene, TX	2.501	34.108	9.975	0.732	24.952	5.571	0	0
Texas	Amarillo, TX	1.858	28.848	4.857	0.313	9.025	2.289	0	0
Texas	Beaumont, TX	3.339	47.069	6.224	0.441	20.779	4.715	0	0
Texas	Brownsville, TX	15.492	183.513	6.119	0.517	94.792	10.815	3	421,659
Texas	College Station--Bryan, TX	13.459	278.354	7.394	0.358	99.516	5.714	3	421,659
Texas	Galveston, TX	1.395	15.418	12.652	1.144	17.645	20.429	3	421,659
Texas	Harlingen, TX	0.759	25.890	0.284	0.008	0.215	0.036	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

REVISED FY 2009 SMALL TRANSIT INTENSIVE CITIES PERFORMANCE DATA and APPORTIONMENTS

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	Average for UZAs with populations 200,000 - 999,999	**6.409**	**107.800**	**11.777**	**0.772**	**89.604**	**15.553**		
Texas	Killeen, TX	1.819	31.156	10.328	0.603	18.783	3.063	0	0
Texas	Lake Jackson--Angleton, TX	1.800	35.174	1.433	0.073	2.579	0.142	0	0
Texas	Laredo, TX	6.798	70.609	11.368	1.094	77.273	24.922	3	421,659
Texas	Longview, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	McKinney, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	Midland, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	Odessa, TX	1.022	15.532	7.656	0.504	7.821	3.886	0	0
Texas	Port Arthur, TX	2.800	43.114	2.974	0.193	8.328	1.225	0	0
Texas	San Angelo, TX	1.355	27.653	10.047	0.492	13.617	3.578	0	0
Texas	Sherman, TX	0.000	0.000	25.862	1.061	0.000	6.297	2	281,106
Texas	Temple, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	Texarkana, TX--Texarkana, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	Texas City, TX	1.800	35.174	1.175	0.060	2.115	0.116	0	0
Texas	The Woodlands, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	Tyler, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	Victoria, TX	2.120	23.836	5.867	0.522	12.436	4.036	0	0
Texas	Waco, TX	4.279	63.979	5.655	0.378	24.196	4.149	0	0
Texas	Wichita Falls, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Utah	Logan, UT	5.271	77.939	19.253	1.302	101.478	33.613	4	562,211
Utah	St. George, UT	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Vermont	Burlington, VT	4.779	67.503	16.392	1.161	78.344	20.671	3	421,659
Virgin Islands	Virgin Islands	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Virginia	Blacksburg, VA	7.389	66.934	11.788	1.301	87.097	42.732	4	562,211
Virginia	Charlottesville, VA	5.289	72.226	16.148	1.183	85.413	19.525	3	421,659
Virginia	Danville, VA	0.933	14.283	6.331	0.414	5.908	4.266	0	0
Virginia	Fredericksburg, VA	3.628	68.571	8.479	0.449	30.761	3.140	0	0
Virginia	Harrisonburg, VA	6.771	65.167	9.514	0.989	64.426	28.346	3	421,659
Virginia	Lynchburg, VA	7.078	88.636	11.573	0.924	81.914	14.873	2	281,106
Virginia	Roanoke, VA	5.027	68.351	10.341	0.761	51.984	11.088	0	0
Virginia	Winchester, VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Washington	Bellingham, WA	4.991	67.696	29.097	2.145	145.216	48.502	4	562,211
Washington	Bremerton, WA	4.734	90.780	33.352	1.739	157.884	28.479	4	562,211

FEDERAL TRANSIT ADMINISTRATION

Table 6

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	Average for UZAs with populations 200,000 - 999,999	**6.409**	**107.800**	**11.777**	**0.772**	**89.604**	**15.553**		
Washington	Kennewick--Richland, WA	6.725	143.004	56.748	2.669	381.634	31.054	6	843,317
Washington	Longview, WA--OR	4.284	48.778	6.067	0.533	25.994	6.373	0	0
Washington	Marysville, WA	6.743	107.294	8.582	0.539	57.869	8.366	1	140,553
Washington	Mount Vernon, WA	4.184	92.347	29.906	1.355	125.125	10.965	3	421,659
Washington	Olympia--Lacey, WA	6.175	117.403	39.451	2.075	243.599	29.939	5	702,764
Washington	Wenatchee, WA	5.373	99.316	35.050	1.896	188.322	16.379	4	562,211
Washington	Yakima, WA	4.431	78.086	13.100	0.743	58.048	12.713	1	140,553
West Virginia	Charleston, WV	4.186	69.944	14.995	0.897	62.767	12.444	2	281,106
West Virginia	Huntington, WV--KY--OH	3.464	50.656	6.222	0.425	21.552	4.476	0	0
West Virginia	Morgantown, WV	1.293	21.652	17.505	1.045	22.632	13.171	2	281,106
West Virginia	Parkersburg, WV--OH	0.000	0.000	0.000	0.000	0.000	0.000	0	0
West Virginia	Wheeling, WV--OH	2.476	30.995	8.240	0.658	20.398	5.087	0	0
Wisconsin	Appleton, WI	3.322	51.022	9.681	0.630	32.160	6.293	0	0
Wisconsin	Beloit, WI--IL	3.429	53.838	6.070	0.387	20.813	5.353	0	0
Wisconsin	Eau Claire, WI	3.032	44.831	15.430	1.043	46.777	12.627	2	281,106
Wisconsin	Fond du Lac, WI	0.996	12.540	8.042	0.638	8.007	3.794	0	0
Wisconsin	Green Bay, WI	3.622	54.148	9.486	0.634	34.354	9.435	0	0
Wisconsin	Janesville, WI	3.748	57.745	7.241	0.470	27.137	7.525	0	0
Wisconsin	Kenosha, WI	5.251	76.825	10.832	0.740	56.874	15.684	1	140,553
Wisconsin	La Crosse, WI--MN	3.070	40.305	13.981	1.065	42.918	12.951	2	281,106
Wisconsin	Oshkosh, WI	3.091	48.755	16.244	1.030	50.212	16.832	3	421,659
Wisconsin	Racine, WI	4.446	56.082	9.124	0.723	40.568	11.397	0	0
Wisconsin	Sheboygan, WI	2.461	32.565	13.061	0.987	32.138	8.773	2	281,106
Wisconsin	Wausau, WI	3.614	51.849	12.441	0.867	44.964	12.942	2	281,106
Wyoming	Casper, WY	1.000	11.649	6.782	0.582	6.782	2.297	0	0
Wyoming	Cheyenne, WY	1.778	25.999	7.363	0.503	13.089	3.486	0	0
							Total	296	$41,603,650

FEDERAL TRANSIT ADMINISTRATION

TABLE 7A

FY 2009 SECTION 5308 CLEAN FUELS GRANT PROGRAM

State	Earmark ID	SAFETEA-LU Project No.	Project	Allocation
CA	E2009-CLNF-001	611	San Joaquin Region Transit District, California, Hybrid Diesel-Electric Replacement Buses	$300,000
CO	E2009-CLNF-002	519	Denver Regional Transit District-Bus Replacements	1,097,000
DE	E2009-CLNF-003	517	Delaware Statewide Bus and Bus Replacement (with Clean Fuel (hybrid) vehicles)	2,250,000
DE	E2009-CLNF-004	648	University of Delaware Fuel Cell Bus Program	185,000
GA	E2009-CLNF-005	578	Metropolitan Atlanta Rapid Transit Authority-Clean Fuel Buses	2,742,000
KY	E2009-CLNF-006	640	Transit Authority of Northern Kentucky-TANK Bus Replacement Project	549,000
KY	E2009-CLNF-007	641	Transit Authority of River City-New Hybrid Electric Buses	823,000
NM	E2009-CLNF-008	612	Santa Fe, NM, Trails Bus and Bus Facilities	700,000
NV	E2009-CLNF-009	557	Lake Tahoe, NV MPO Bus Replacement	1,000,000
NY	E2009-CLNF-010	659	Westchester, NY, Bee Line Bus Replacement	650,000
OH	E2009-CLNF-011	631	Southwest Ohio Regional Transit Authority-Bus Replacements	823,000
RI	E2009-CLNF-012	605	Rhode Island, Statewide Bus and Van Replacement	6,400,000
TN	E2009-CLNF-013	614	Sevierville County, TN Transportation Board-Alternative Fuel Buses	274,000
TX	E2009-CLNF-014	497	City of El Paso-Sun Metro-Bus Replacements	823,000
TX	E2009-CLNF-015	575	METRO of Harris County-Discretionary Bus Program	2,742,000
TX	E2009-CLNF-016	638	The District, The Woodlands, TX-Bus Replacement Program	274,000
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			Total FY 2009 Allocations.....	**$51,500,000**

FEDERAL TRANSIT ADMINISTRATION

TABLE 8

REVISED FY 2009 SECTION 5309 FIXED GUIDEWAY MODERNIZATION APPORTIONMENTS

(Apportionment amount is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

STATE	AREA	APPORTIONMENT
Alaska	Anchorage, AK - Alaska Railroad	$18,663,749
Arizona	Phoenix--Mesa, AZ	3,804,975
California	Antioch, CA	3,792,712
California	Concord, CA	19,111,336
California	Lancaster--Palmdale, CA	3,049,988
California	Los Angeles--Long Beach--Santa Ana, CA	58,379,061
California	Mission Viejo, CA	2,239,050
California	Oxnard, CA	1,662,289
California	Riverside--San Bernardino, CA	5,862,224
California	Sacramento, CA	4,797,663
California	San Diego, CA	20,934,306
California	San Francisco--Oakland, CA	89,040,027
California	San Jose, CA	20,296,433
California	Stockton, CA	2,260,972
California	Thousand Oaks, CA	922,670
Colorado	Denver--Aurora, CO	8,363,155
Connecticut	Hartford, CT	2,197,665
Connecticut	Southwestern Connecticut	45,665,373
District of Columbia	Washington, DC--VA--MD	109,053,987
Florida	Jacksonville, FL	492,279
Florida	Miami, FL	27,286,610
Florida	Orlando, FL	244,042
Florida	Tampa--St. Petersburg, FL	192,658
Georgia	Atlanta, GA	36,710,131
Hawaii	Honolulu, HI	2,123,719
Illinois	Chicago, IL--IN	173,603,836
Illinois	Round Lake Beach-McHenry-Grayslake, IL-WI	3,334,878
Indiana	South Bend, IN--MI	1,142,634
Louisiana	New Orleans, LA	3,685,744
Maryland	Baltimore Commuter Rail	24,229,870
Maryland	Baltimore, MD	14,034,156
Massachusetts	Boston, MA	92,164,792
Massachusetts	Worcester, MA-CT	1,449,270
Michigan	Detroit, MI	841,355
Minnesota	Minneapolis--St. Paul, MN	12,353,123
Missouri	Kansas City, MO--KS	45,043
Missouri	St. Louis, MO--IL	8,735,041
New Jersey	Atlantic City, NJ	1,632,609
New Jersey	Northeastern New Jersey	109,757,796
New Jersey	Trenton, NJ	2,148,356
New York	Buffalo, NY	1,700,669
New York	New York	459,838,410
New York	Poughkeepsie-Newburgh, NY	3,146,544
North Carolina	Charlotte, NC--SC	258,936
Ohio	Cleveland, OH	14,086,725
Ohio	Dayton, OH	6,950,275
Oregon	Portland, OR--WA	11,259,236
Pennsylvania	Harrisburg, PA	1,305,803
Pennsylvania	Lancaster, PA	3,799,525
Pennsylvania	Philadelphia, PA-NJ-DE-MD	110,018,811
Pennsylvania	Pittsburgh, PA	22,426,397
Puerto Rico	San Juan, PR	3,164,731
Rhode Island	Providence, RI--MA	3,315,603
Tennessee	Chattanooga, TN--GA	110,011
Tennessee	Memphis, TN--MS--AR	587,390
Texas	Dallas--Fort Worth--Arlington, TX	10,997,449
Texas	Houston, TX	11,861,768
Utah	Salt Lake City, UT	3,293,065
Virginia	Virginia Beach, VA	1,641,252
Washington	Seattle, WA	41,194,547
West Virginia	Morgantown, WV	1,463,658
Wisconsin	Madison, WI	967,776
Wisconsin	Milwaukee, WI	391,308
	TOTAL	**1,650,085,466**

FEDERAL TRANSIT ADMINISTRATION

TABLE 9

FY 2009 FIXED GUIDEWAY MODERNIZATION PROGRAM APPORTIONMENT FORMULA

Tier 1 First $497,700,000 to the following areas:

Baltimore	$	8,372,000
Boston	$	38,948,000
Chicago/N.W. Indiana	$	78,169,000
Cleveland	$	9,509,500
New Orleans	$	1,730,588
New York	$	176,034,461
N. E. New Jersey	$	50,604,653
Philadelphia/So. New Jersey	$	58,924,764
Pittsburgh	$	13,662,463
San Francisco	$	33,989,571
SW Connecticut	$	27,755,000

Tier 2 Next $70,000,000 as follows: Tier 2(A): 50 percent is allocated to areas identified in Tier 1; Tier 2(B): 50 percent is allocated to other urbanized areas with fixed guideway tiers in operation at least seven years. Funds are allocated by the Urbanized Area Formula Program fixed guideway tier formula factors that were used to apportion funds for the fixed guideway modernization program in FY 1997.

Tier 3 Next $5,700,000 as follows: Pittsburgh 61.76%; Cleveland 10.73%; New Orleans 5.79%; and 21.72% is allocated to all other areas in Tier 2(B) by the same fixed guideway tier formula factors used in fiscal year 1997.

Tier 4 Next $186,600,000 as follows: All eligible areas using the same year fixed guideway tier formula factors used in fiscal year 1997.

Tier 5 Next $70,000,000 as follows: 65% to the 11 areas identified in Tier 1, and 35% to all other areas using the most current Urbanized Area Formula Program fixed guideway tier formula factors. Any segment that is less than 7 years old in the year of the apportionment will be deleted from the database.

Tier 6 Next $50,000,000 as follows: 60% to the 11 areas identified in Tier 1, and 40% to all other areas using the most current Urbanized Area Formula Program fixed guideway tier formula factors. Any segment less than 7 years old in the year of the apportionment will be deleted from the database.

Tier 7 Remaining amounts as follows: 50% to the 11 areas identified in Tier 1, and 50% to all other areas using the most current Urbanized Area Formula Program fixed guideway formula factors. Any segment that is less than 7 years old in the year of the apportionment will be deleted from the database.

FEDERAL TRANSIT ADMINISTRATION

TABLE 10A

FY 2009 Section 5309 Bus and Bus Facility Allocations

State	Earmark ID	SAFETEA-LU Project No.	Project	Allocation
AK	E2009-BUSP-001	427	Alaska Native Medical Center intermodal parking facility	$1,350,000
AK	E2009-BUSP-002	466	Anchorage-Transit Needs	274,000
AK	E2009-BUSP-003		Bus Acquisition, Fairbanks North Star Borough Transit	798,000
AK	E2009-BUSP-004	422	C Street Expanded bus facility and inter-modal parking garage, Anchorage, AK	1,350,000
AK	E2009-BUSP-005	425	CITC Non-profit Services Center inter-modal parking facility, Anchorage, AK	810,000
AK	E2009-BUSP-006	541	Hoonah, AK-Intermodal Ferry Dock	549,000
AK	E2009-BUSP-007	416	Improve marine dry-dock in Ketchikan	3,780,000 a/
AK	E2009-BUSP-008	436	Intermodal facility improvements at the Port of Anchorage	6,750,000
AK	E2009-BUSP-009	236	Juneau, Alaska-transit bus acquisition and transit center	405,000
AK	E2009-BUSP-010	550	Juneau-Transit Bus Acquisition and Transit Center	411,000
AK	E2009-BUSP-011	553	Ketchikan, Alaska-Transit Needs	68,000
AK	E2009-BUSP-012		MASCOT Bus Bay Expansion, Mat-Su Borough	665,000
AK	E2009-BUSP-013	574	Matsu, Alaska-Transit Needs	137,000
AK	E2009-BUSP-014	423	Morris Thompson Cultural and Visitors Center intermodal parking facility, Fairbanks, AK	675,000
AK	E2009-BUSP-015	596	North Slope Borough, AK-Transit Purposes	549,000
AK	E2009-BUSP-016	597	North Star Borough, AK-Transit Purposes	274,000
AK	E2009-BUSP-017	616	Sitka, Alaska-Transit Needs	68,000
AK	E2009-BUSP-018		Statewide Bus and Bus Facility Enhancements	570,000
AK	E2009-BUSP-019	664	Wrangell, AK-Ferry Infrastructure	274,000
AL	E2009-BUSP-020	461	Alabama Institute for Deaf and Blind-Bus project	137,000
AL	E2009-BUSP-021		Alabama Senior Transportation Program	950,000
AL	E2009-BUSP-022	462	Alabama State Port Authority-Choctaw Point Terminal	5,485,000
AL	E2009-BUSP-023	437	American Village/Montevallo, Alabama construction of closed loop Access Road, bus lanes and parking facility	90,288
AL	E2009-BUSP-024		Baldwin County Bus and Bus Facilities Project	950,000
AL	E2009-BUSP-025	98	Birmingham, AL Expansion of Downtown Intermodal Facility, Phase II	451,440
AL	E2009-BUSP-026	496	City of Birmingham, AL-Birmingham Downtown Intermodal Terminal, Phase II	1,372,000
AL	E2009-BUSP-027	501	City of Huntsville, AL- Cummings Park Intermodal Center	1,372,000
AL	E2009-BUSP-028	503	City of Montgomery, AL-ITS Acquisition and Implementation	1,097,000
AL	E2009-BUSP-029	504	City of Montgomery, AL-Montgomery Airport Intermodal Center	1,097,000
AL	E2009-BUSP-030	507	City of Tuscaloosa, AL-Intermodal Facility	1,646,000
AL	E2009-BUSP-031	528	Gadsden, AL-Community Buses	137,000
AL	E2009-BUSP-032	534	Gulf Shores, AL-- Bus and Bus facilities	274,000 a/
AL	E2009-BUSP-033		Marshall County Vehicle Replacement for Seniors and for the Mentally Disabled	285,000
AL	E2009-BUSP-034	582	Mobile County, AL Commission-Bus project	137,000
AL	E2009-BUSP-035		Replacement of Buses and Vans, Birmingham-Jefferson County Transit Authority	1,425,000
AL	E2009-BUSP-036		University of Alabama Bus and Bus Facility Project	475,000
AL	E2009-BUSP-037	644	University of Alabama in Birmingham Intermodal Facility	1,919,000
AL	E2009-BUSP-038	645	University of Alabama in Huntsville Intermodal Facility	1,646,000
AL	E2009-BUSP-039	646	University of Alabama Intermodal Facility South	2,468,000
AL	E2009-BUSP-040	647	University of Alabama Transit System	411,000
AL	E2009-BUSP-041	650	US Space and Rocket Center, AL-Tramway Expansion	274,000
AR	E2009-BUSP-042	487	Central Arkansas Transit Authority, Bus Acquisition	1,000,000 a/
AR	E2009-BUSP-043		Environmental, Security and Bus Upgrades, Razorback Transit System, Fayetteville	570,000
AR	E2009-BUSP-044	231	Harrison, Arkansas-Trolley Barn	9,029
AR	E2009-BUSP-045		Southeast Arkansas Regional Intermodal Facility	475,000
AR	E2009-BUSP-046		Statewide Bus and Bus Facilities	950,000
AR	E2009-BUSP-047	263	Wilmar, AR Develop the Southeast Arkansas Intermodal Facility	451,440
AZ	E2009-BUSP-048	304	Coconino County buses and bus facilities for Flagstaff, AZ	282,150
AZ	E2009-BUSP-049	229	Coconino County, Arizona-Bus and bus facilities for the Sedona Transit System	214,434
AZ	E2009-BUSP-050	47	Phoenix, AZ Construct City of Phoenix para-transit facility (Dial-A-Ride)	225,720
AZ	E2009-BUSP-051	346	Phoenix, AZ Construct metro bus facility in Phoenix's West Valley	1,128,600
AZ	E2009-BUSP-052	150	Phoenix, AZ Construct regional heavy bus maintenance facility	225,720
AZ	E2009-BUSP-053	26	Scottsdale, Arizona-Plan, design, and construct intermodal center	564,300
AZ	E2009-BUSP-054		South Mountain Circulator Bus, Phoenix	950,000
AZ	E2009-BUSP-055	203	Tempe, Arizona-Construct East Valley Metro Bus Facility	1,467,180
CA	E2009-BUSP-056	75	Alameda County, CA AC Transit Bus Rapid Transit Corridor Project	112,860
CA	E2009-BUSP-057	288	Alameda County, CA AC Transit Bus Rapid Transit Corridor Project	451,440
CA	E2009-BUSP-058	398	Amador County, California-Regional Transit Center	225,720
CA	E2009-BUSP-059		Anaheim Regional Transportation Intermodal Center, Orange County	2,612,500
CA	E2009-BUSP-060	76	Baldwin Park, CA Construct vehicle and bicycle parking lot and pedestrian rest area at transit center	451,440
CA	E2009-BUSP-061	227	Berkeley, CA Construct Ed Roberts Campus Intermodal Transit Disability Center	677,160
CA	E2009-BUSP-062	119	Burbank, CA CNG Transit Vehicles Purchase for Local Transit Network Expansion	101,574
CA	E2009-BUSP-063	396	Burbank, CA Construction of Empire Area Transit Center near Burbank Airport	56,430
CA	E2009-BUSP-064		Bus Replacement, Culver City	142,500
CA	E2009-BUSP-065		Bus Replacement/Expansion (Alternative Fuel), Solano County	760,000
CA	E2009-BUSP-066		Bus Shelters, Bellflower	475,000
CA	E2009-BUSP-067	190	Calexico, CA Purchase new buses for the Calexico Transit System	67,716

FEDERAL TRANSIT ADMINISTRATION

TABLE 10A

FY 2009 Section 5309 Bus and Bus Facility Allocations

State	Earmark ID	SAFETEA-LU Project No.	Project	Allocation
CA	E2009-BUSP-068	132	Carson, CA Purchase one bus	56,430
CA	E2009-BUSP-069	407	Carson, CA Purchase one trolley-bus vehicle	56,430
CA	E2009-BUSP-070	108	Carson, CA Purchase two transfer facility	112,860
CA	E2009-BUSP-071	54	City of Alameda, CA Plan, design, and construct intermodal facility	451,440
CA	E2009-BUSP-072	155	City of Livermore, CA Construct Bus Facility for Livermore Amador Valley Transit Authority	507,870
CA	E2009-BUSP-073	669	City of Los Angeles California, for the purchase of transit vehicles in Watts and enhancement of paratransit and senior transportation services.	150,480 c/
CA	E2009-BUSP-074		Clean Air Buses, City of Paramount	142,500
CA	E2009-BUSP-075		Clean Air Buses, City of Cerritos	190,000
CA	E2009-BUSP-076	158	Covina, El Monte, Baldwin Park, Upland, CA Parking and Electronic Signage Improvements	395,010
CA	E2009-BUSP-077	207	Culver City, CA Purchase compressed natural gas buses and expand natural gas fueling facility	835,164
CA	E2009-BUSP-078	17	Davis, CA Davis Multi-Modal Station to improve entrance to Amtrak Depot and parking lot, provide additional parking and improve service	225,720
CA	E2009-BUSP-079	11	Development of Gold Country Stage Transit Transfer Center, Nevada County, CA	209,992
CA	E2009-BUSP-080		East County Bus Maintenance and Paratransit Facility, El Cajon	261,250
CA	E2009-BUSP-081	339	East San Diego County, California-Bus Maintenance Facility Expansion	451,440
CA	E2009-BUSP-082		Ed Roberts Campus Intermodal Facility, Berkeley	475,000
CA	E2009-BUSP-083	101	Emeryville, CA Expand & Improve Inter-modal Transit Center at Amtrak Station	225,720
CA	E2009-BUSP-084	222	Escondido, CA-Construct Bus Maintenance Facility	112,860
CA	E2009-BUSP-085		Fairfield Transportation Center	475,000
CA	E2009-BUSP-086	387	Fresno, CA-Develop program of low-emission transit vehicles	225,720
CA	E2009-BUSP-087	260	Gardena, CA Purchase of alternative fuel buses for service expansion, on-board security system and bus facility training equipment	1,383,664
CA	E2009-BUSP-088		Glassell park Transit Pavilion, Los Angeles	190,000
CA	E2009-BUSP-089	212	Glendale, CA Construction of Downtown Streetcar Project	225,720
CA	E2009-BUSP-090	1	Glendale, CA Purchase of CNG Buses for Glendale Beeline Transit System	104,283
CA	E2009-BUSP-091		Gold Coast Transit Maintenance and Operations Facility, Oxnard	475,000
CA	E2009-BUSP-092	414	Hercules, CA Inter-modal Rail Station Improvements	338,580
CA	E2009-BUSP-093		Historic Filipinotown Bus Security Lights, Los Angeles	62,700
CA	E2009-BUSP-094		Intermodal Station, Vacaville	475,000
CA	E2009-BUSP-095		La Cienega Intermodal Center, Los Angeles	475,000
CA	E2009-BUSP-096	276	Long Beach Transit, Long Beach California, for the purchase of transit vehicles and enhancement of paratransit and senior transportation services	150,480 b/
CA	E2009-BUSP-097	332	Long Beach, CA Park and Ride Facility	225,720
CA	E2009-BUSP-098	295	Long Beach, CA Purchase one larger (75. passengers) and two smaller (40 passengers) ferryboats and construct related dock work to facilitate the use and accessibility of the ferryboats	677,160
CA	E2009-BUSP-099	410	Long Beach, CA Purchase ten clean fuel buses	677,160
CA	E2009-BUSP-100	443	Los Angeles County Metropolitan Transit Authority, CA capital funds for facility improvements to support the Cal State Northridge tram system	73,359
CA	E2009-BUSP-101		Los Angeles Southwest College Western Transit Center, Los Angeles	712,500
CA	E2009-BUSP-102	140	Los Angeles, CA Crenshaw Bus Rapid Transit	1,924,940
CA	E2009-BUSP-103	223	Los Angeles, CA Design and construct improved transit and pedestrian linkages between Los Angeles Community College and nearby MTA rail stop and bus lines	338,580
CA	E2009-BUSP-104	307	Los Angeles, CA Improve safety, mobility and access between LATTC, Metro line and nearby bus stops on Grand Ave between Washington and 23rd	112,860
CA	E2009-BUSP-105	121	Los Angeles, CA Improve transit shelters, sidewalks lighting and landscaping around Cedar's-Sinai Medical Center	338,580
CA	E2009-BUSP-106	326	Los Angeles, CA Install permanent irrigation system and enhanced landscaping on San Fernando Valley rapid bus transit way	677,160
CA	E2009-BUSP-107	6	Los Angeles, CA, Construction of Intermodal Transit Center at California State University Los Angeles	178,319
CA	E2009-BUSP-108	567	Los Angeles, CA, Fly-Away Bus System Expansion	850,000
CA	E2009-BUSP-109	566	Los Angeles, CA, LAX Intermodal Transportation Center Rail and Bus System Expansion	850,000
CA	E2009-BUSP-110	36	Los Angeles, County Metropolitan Transportation Authority (LACMTA) for bus and bus related facilities in LACMTA's area	225,720 a/
CA	E2009-BUSP-111	311	Mammoth Lakes, California-Regional Transit Maintenance Facility	112,860
CA	E2009-BUSP-112	112	Mariposa, CA-Yosemite National Park CNG-Hydrogen transit buses and facilities	564,300
CA	E2009-BUSP-113	266	Martinez, CA Inter-modal Facility Restoration	338,580
CA	E2009-BUSP-114	285	Metro Gold Line Foothill Extension Light Rail Transit Project from Pasadena, CA to Montclair, CA	3,385,800
CA	E2009-BUSP-115		Metropolitan Transportation Authority, Zero Emissions Bus Demonstration Project, Los Angeles County	475,000
CA	E2009-BUSP-116		Monrovia Transit Village Improvements	237,500
CA	E2009-BUSP-117	39	Monrovia, California-Transit Village Project	677,160
CA	E2009-BUSP-118	200	Montebello, CA Bus Lines Bus Fleet Replacement Project	158,004
CA	E2009-BUSP-119	186	Monterey Park, CA Bus enhancement and improvements-construct maintenance facility and purchase clean-fuel buses to improve transit service	361,152
CA	E2009-BUSP-120	321	Monterey Park, CA Catch Basins at Transit Stop Installation	72,230

FEDERAL TRANSIT ADMINISTRATION

TABLE 10A

FY 2009 Section 5309 Bus and Bus Facility Allocations

State	Earmark ID	SAFETEA-LU Project No.	Project	Allocation
CA	E2009-BUSP-121	191	Monterey Park, CA Safety improvements at a bus stop including creation of bus loading areas and street improvements	361,152
CA	E2009-BUSP-122		Monterey Salinas Transit Bus Refinancing	475,000
CA	E2009-BUSP-123	375	Monterey, CA Purchase bus equipment	225,720
CA	E2009-BUSP-124		MTOC Clean Fuel Bus Purchases and Facility Enhancements	475,000
CA	E2009-BUSP-125		Multi-modal Transit Centers, Riverside and Corona	950,000
CA	E2009-BUSP-126	43	Needles, California-El Garces Intermodal Facility	451,440
CA	E2009-BUSP-127	92	Norwalk, CA Transit System Bus Procurement and Los Angeles World Airport Remote Fly-Away Facility Project	180,576
CA	E2009-BUSP-128		Norwalk/Santa Fe Springs Transportation Center Improvements, Santa Fe Springs	475,000
CA	E2009-BUSP-129	392	Oakland, CA Construct Bay Trail between Coliseum BART station and Martin Luther King, Jr. Regional Shoreline	203,148
CA	E2009-BUSP-130	352	Oakland, CA Construct streetscape & intermodal improvements at BART Station Transit Villages	225,720
CA	E2009-BUSP-131	173	Ontario, CA Construct Omnitrans Transcenter	225,720
CA	E2009-BUSP-132	194	Orange County Transit Authority, California-Security surveillance and monitoring equipment	1,194,059
CA	E2009-BUSP-133	244	Orange County, CA Purchase buses for rapid transit	225,720
CA	E2009-BUSP-134	366	Orange County, CA Transportation Projects to Encourage Use of Transit to Reduce Congestion	225,720
CA	E2009-BUSP-135	45	Palm Springs, California-Sunline Transit bus purchase	112,860
CA	E2009-BUSP-136	70	Palm Springs, California-Sunline Transit: CalStrat-Weststart fuel cell bus program	225,720
CA	E2009-BUSP-137		Palmdale Transportation Center Metrolink Platform Extension	380,000
CA	E2009-BUSP-138	399	Pasadena, CA ITS Improvements	225,720
CA	E2009-BUSP-139	116	Pleasant Hill, CA Construct Diablo Valley College Bus Transit Center	338,580
CA	E2009-BUSP-140		Purchase Clean Fuel Buses for Long Beach Transit	950,000
CA	E2009-BUSP-141		Purchase CNG Buses for Foothill Transit	1,187,500
CA	E2009-BUSP-142	251	Redondo Beach, CA Capital Equipment procurement of 12. Compressed Natural Gas (CNG) Transit Vehicles for Coastal Shuttle Services by Beach Cities Transit	180,576
CA	E2009-BUSP-143		Regional Bus Replacement, San Diego	475,000
CA	E2009-BUSP-144	286	Richmond, CA BART Parking Structure	1,128,600
CA	E2009-BUSP-145	171	Riverside, California-RTA Advanced Traveler Information System	112,860
CA	E2009-BUSP-146	189	Sacramento, CA Bus enhancement and improvements-construct maintenance facility and purchase clean-fuel buses to improve transit service	451,440
CA	E2009-BUSP-147	84	Sacramento, improvements to the existing Sacramento Intermodal Facility (Sacramento Valley Station)	1,580,040 a/
CA	E2009-BUSP-148	253	San Bernardino, CA Implement Santa Fe Depot improvements in San Bernardino	112,860
CA	E2009-BUSP-149	282	San Diego, CA Completion of San Diego Joint Transportation Operations Center (JTOC)	451,440
CA	E2009-BUSP-150	314	San Diego, CA Widen sidewalks and bus stop entrance, and provide diagonal parking, in the Skyline Paradise Hills neighborhood (Reo Drive)	67,716
CA	E2009-BUSP-151	183	San Fernando Valley, CA Reseda Blvd. Bus Rapid Transit Route	135,432
CA	E2009-BUSP-152	127	San Fernando, CA Purchase CNG buses and related equipment and construct facilities	686,189
CA	E2009-BUSP-153	377	San Francisco, CA Construct San Francisco Muni Islais Creek Maintenance Facility	1,354,320
CA	E2009-BUSP-154	287	San Francisco, CA Implement ITS on Muni Transit System	677,160
CA	E2009-BUSP-155	403	San Francisco, CA Implement Transbay Terminal-Caltrain Downtown Extension Project	3,160,080
CA	E2009-BUSP-156	381	San Francisco, CA Redesign and renovate intermodal facility at Glen Park Community	931,095
CA	E2009-BUSP-157	341	San Gabriel Valley, CA-Foothill Transit Park and Rides	2,144,340
CA	E2009-BUSP-158	254	San Joaquin, California Regional Rail-Altamont Commuter Express Corridor inter-modal centers	902,880
CA	E2009-BUSP-159	382	San Luis Ray, California-Transit Center Project	112,860
CA	E2009-BUSP-160	145	Santa Ana, CA Improve Santa Ana transit terminal	225,720
CA	E2009-BUSP-161	147	Santa Barbara, CA-Expansion of Regional Intermodal Transit Center	67,716
CA	E2009-BUSP-162		Santa Cruz Metro Smart Fare Payment System	475,000
CA	E2009-BUSP-163		Santa Maria Intermodal Transportation Center, Santa Maria	475,000
CA	E2009-BUSP-164	364	Santa Monica, CA Construct intermodal park-and-ride facility at Santa Monica College campus on South Bundy Drive near Airport Avenue	225,720
CA	E2009-BUSP-165	172	Santa Monica, CA Purchase and service LNG buses for Santa Monica's Big Blue Bus to meet increased ridership needs and reduce emissions	846,450
CA	E2009-BUSP-166		Senior Center Clean Fuel/Hybrid Transit Bus, City of South El Monte	380,000
CA	E2009-BUSP-167	313	Solana Beach, CA-Construct Intermodal Facility	338,580
CA	E2009-BUSP-168	27	Sonoma County, CA Purchase of CNG buses	112,860
CA	E2009-BUSP-169	401	South Pasadena, CA Silent Night Grade Crossing Project	203,148
CA	E2009-BUSP-170	383	South San Francisco, CA Construction of Ferry Terminal at Oyster Point in South San Francisco to the San Francisco Bay Water Transit Authority	1,072,170
CA	E2009-BUSP-171		Sunline Bus and Bus Facilities, Thousand Palms	475,000
CA	E2009-BUSP-172	388	Sylmar, CA Los Angeles Mission College Transit Center construction	56,430
CA	E2009-BUSP-173	315	Temecula, California-Intermodal Transit Facility	112,860
CA	E2009-BUSP-174	668	The City of Compton California, for replacement of buses and paratransit vehicles	150,480 c/
CA	E2009-BUSP-175	85	Torrance Transit System, CA Acquisition of EPA and CARB-certified low emission replacement buses	677,160

FEDERAL TRANSIT ADMINISTRATION

TABLE 10A

FY 2009 Section 5309 Bus and Bus Facility Allocations

State	Earmark ID	SAFETEA-LU Project No.	Project	Allocation
CA	E2009-BUSP-176	459	Transbay Terminal/ Caltrain Downtown Extension Project	4,725,000
CA	E2009-BUSP-177		Transit Station Expansion Project (Metrolink Parking Lot), Rialto	285,000
CA	E2009-BUSP-178		Tri-Delta Transit Park and Ride Lots, Eastern Contra Costa County	641,250
CA	E2009-BUSP-179		Union City Intermodal Phase II - Commuter Rail Connection, Union City, Alameda County	475,000
CA	E2009-BUSP-180	35	Union City, CA Inter-modal Station, Phase 1: Modify BART station	959,310
CA	E2009-BUSP-181	195	Woodland Hills, CA Los Angeles Pierce College Bus Rapid Transit Station Extension	225,720
CA	E2009-BUSP-182	83	Woodland, CA Yolobus operations, maintenance, administration facility expansion and improvements to increase bus service with alternative fuel buses	451,440
CO	E2009-BUSP-183	449	City of Aspen, CO Bus and Bus Facilities	158,004
CO	E2009-BUSP-184	448	City of Durango, CO Bus and Bus Facilities	56,430
CO	E2009-BUSP-185	509	Colorado Association of Transit Agencies/Colorado Transit Coalition-Colorado Statewide Buses and Bus Facilities	7,130,000
CO	E2009-BUSP-186		Colorado Transit Coalition Statewide Bus and Bus Facilities	237,500
CO	E2009-BUSP-187	518	Denver Regional Transit District-Bus Maintenance Facility	823,000
CO	E2009-BUSP-188	520	Denver Regional Transit District-Denver Union Station Multimodal Renovations	549,000
CO	E2009-BUSP-189	521	Denver Regional Transit District-US 36 Corridor BRT	1,919,000
CO	E2009-BUSP-190	167	Denver, CO Denver Union Station Inter-modal Center	1,241,460
CO	E2009-BUSP-191	435	Denver, Colorado-Regional Transportation District Bus Replacement	451,440
CO	E2009-BUSP-192	441	Grand Valley Transit, CO Bus and Bus Facilities	112,860
CO	E2009-BUSP-193	188	Mountain Express, Crested Butte, CO Bus and Bus Facilities	112,860
CO	E2009-BUSP-194	444	Pueblo Transit, CO Bus and Bus Facilities	56,430
CO	E2009-BUSP-195	445	Roaring Fork Transit Authority, CO Bus and Bus Facilities	169,290
CO	E2009-BUSP-196	446	Steamboat Springs, CO Bus and Bus Facilities	169,290
CO	E2009-BUSP-197	450	Town of Snowmass Village, CO Bus and Bus Facilities	67,716
CO	E2009-BUSP-198	447	Town of Telluride, CO Bus and Bus Facilities	72,923
CT	E2009-BUSP-199		Bridgeport Intermodal Transportation Center	2,850,000
CT	E2009-BUSP-200	44	Bridgeport, Connecticut-Greater Bridgeport Transit Authority Bus Facility	112,860
CT	E2009-BUSP-201	478	Bridgeport, CT Facility Expansion/Improvement	750,000
CT	E2009-BUSP-202	90	Buses and bus related facilities throughout the State of Connecticut	1,354,320
CT	E2009-BUSP-203	523	Downtown Middletown, CT, Transportation Infrastructure Improvement Project	2,850,000
CT	E2009-BUSP-204	218	Enfield, Connecticut-intermodal station	677,160
CT	E2009-BUSP-205	394	Hartford, CT Buses and bus-related facilities	902,880
CT	E2009-BUSP-206	267	Middletown, CT Construct intermodal center	338,580
CT	E2009-BUSP-207	589	New Haven, CT Bus Maintenance Facility	2,850,000
CT	E2009-BUSP-208	269	New London, Connecticut-Intermodal Transportation Center and Streetscapes	112,860
CT	E2009-BUSP-209	369	Norwalk, Connecticut-Pulse Point Joint Development inter-modal facility	112,860
CT	E2009-BUSP-210	131	Stonington and Mystic, Connecticut-Intermodal Center parking facility and Streetscape	550,757
CT	E2009-BUSP-211	32	Torrington, CT Construct bus-related facility (Northwestern Connecticut Central Transit District)	451,440
CT	E2009-BUSP-212	270	Vernon, Connecticut-Intermodal Center, Parking and Streetscapes	1,715,472
CT	E2009-BUSP-213	657	Waterbury, CT Bus Maintenance Facility	3,400,000
DC	E2009-BUSP-214		Union Station Intermodal Transportation Center, Washington	475,000
DE	E2009-BUSP-215		Automotive-Based Fuel Cell Hybrid Bus Program	475,000
DE	E2009-BUSP-216	169	Delaware-University of Delaware Fuel Cell Bus Deployment	112,860
FL	E2009-BUSP-217		Amtrak Station Construction and Improvements, Winter Park	950,000
FL	E2009-BUSP-218		Bay County Transit Facility Upgrade	712,500
FL	E2009-BUSP-219	470	Bay County, FL - Transit Facility	549,000
FL	E2009-BUSP-220	297	Broward County, FL - Purchase Buses and construct bus facilities	451,440
FL	E2009-BUSP-221	69	Broward County, FL Buses & Bus Facilities	1,467,180
FL	E2009-BUSP-222	479	Broward County-Bus and Bus Facilities	549,000
FL	E2009-BUSP-223	117	Broward, FL Purchase new articulated buses and bus stop improvements on State Road 7. (SR 7) between Golden Glades Interchange and Glades Road	112,860
FL	E2009-BUSP-224		Bus Facility, North Bay Village	475,000
FL	E2009-BUSP-225		Bus Replacement for LeeTran Transit System, Lee County	475,000
FL	E2009-BUSP-226		Central Avenue BRT Corridor Station Development and Enhancements	475,000
FL	E2009-BUSP-227	453	Central Florida Commuter Rail Intermodal Facilities	810,000
FL	E2009-BUSP-228	488	Central Florida Regional Transportation Authority-LYNX Bus Fleet Expansion Program	1,372,000
FL	E2009-BUSP-229	498	City of Gainesville Regional Transit System-Facility Expansion	274,000
FL	E2009-BUSP-230	508	Collier County Transit-Transit Facility	274,000
FL	E2009-BUSP-231		Construction of Bus Stations in Altamonte, Lake Mary, Longwood, and Sanford	1,425,000
FL	E2009-BUSP-232		Construction of Transit Facilities and Bus Replacement, St. Johns County Council	1,472,500
FL	E2009-BUSP-233		Design, Acquisition of ROW, and Construction of the Regional Intermodal Terminal Center, Jacksonville	475,000
FL	E2009-BUSP-234	23	Design, engineering, right-of-way acquisition and construction intermodal transportation & parking facility, City of Winter Park	112,860 a/
FL	E2009-BUSP-235	439	Design, engineering, right-of-way acquisition, and construction Central Florida Commuter Rail intermodal facilities	1,128,600 a/
FL	E2009-BUSP-236		Doral Transit Circulator Program, City of Doral	475,000
FL	E2009-BUSP-237	80	Flagler County, Florida-buses and bus facility	67,716 a/ b/

FEDERAL TRANSIT ADMINISTRATION

TABLE 10A

FY 2009 Section 5309 Bus and Bus Facility Allocations

State	Earmark ID	SAFETEA-LU Project No.	Project	Allocation
FL	E2009-BUSP-238	527	Florida Department of Transportation-Palm Beach County Replacement Buses	274,000
FL	E2009-BUSP-239		Gainesville RTS Buses, Gainesville	475,000
FL	E2009-BUSP-240	344	Gainesville, FL Bus Facility Expansion	902,880
FL	E2009-BUSP-241	213	Gainesville, FL Bus Rapid Transit Study	112,860
FL	E2009-BUSP-242	95	Gainesville, FL Bus Replacement	902,880
FL	E2009-BUSP-243	538	Hillsborough Area Regional Transit-Bus Rapid Transit Improvements	549,000
FL	E2009-BUSP-244	539	Hillsborough, FL, Hillsborough Area regional Transit Authority	1,000,000
FL	E2009-BUSP-245	548	Jacksonville Transportation Authority-Bus Fleet Replacement and Equipment	1,372,000
FL	E2009-BUSP-246	306	Jacksonville, FL Bus Replacement	1,580,040
FL	E2009-BUSP-247	107	Jacksonville, FL Paratransit Vehicles	1,015,740
FL	E2009-BUSP-248		Lakeland Area Mass Transit District Bus Replacement and Facility Maintenance	285,000
FL	E2009-BUSP-249	558	Lakeland Area Mass Transit District/Citrus Connection-Capital Funding Needs	549,000
FL	E2009-BUSP-250	238	Levy County, Florida-Purchase 2. wheel chair equipped passenger buses and related equipment	67,716
FL	E2009-BUSP-251	103	Longwood, Florida-Construct Intermodal Transportation Facility	112,860
FL	E2009-BUSP-252		Lower Keys Shuttle Bus Facilities, Key West	950,000
FL	E2009-BUSP-253		LYNX Buses, Orange County	237,500
FL	E2009-BUSP-254	308	Miami Dade, FL N.W. 7th Avenue Transit Hub	677,160
FL	E2009-BUSP-255		Miami Lakes Hybrid Electric Vehicles and Trolleybus Procurement	570,000
FL	E2009-BUSP-256	211	Miami-Dade County, Florida-buses and bus facilities	1,354,320
FL	E2009-BUSP-257	432	Miami-Dade County, Florida-buses and bus facilities	902,880
FL	E2009-BUSP-258	133	Miami-Dade County, Florida-Transit Security System	674,903
FL	E2009-BUSP-259	580	Miami-Dade Transit 7th Avenue NW Transit Hub	274,000
FL	E2009-BUSP-260		Miami-Dade Transit Bus Procurement Plan	475,000
FL	E2009-BUSP-261	454	Miami-Dade Transit Dadeland South Intermodal Center	540,000
FL	E2009-BUSP-262		Miramar Town Center Transit Hub	475,000
FL	E2009-BUSP-263	136	Ocala and Marion County, Florida-replacement buses	677,160
FL	E2009-BUSP-264	294	Orlando, FL Bus Replacement	902,880
FL	E2009-BUSP-265	14	Orlando, Florida-LYNX Bus Fleet Expansion Program	203,148
FL	E2009-BUSP-266	125	Palm Beach County, FL Plan and Construct Belle Glade Combined Passenger Transit Facility	790,020
FL	E2009-BUSP-267	367	Palm Beach, FL 20 New Buses for Palm Tran	338,580
FL	E2009-BUSP-268	248	Palm Beach, FL Palm Tran AVL-APC system with smart card fare boxes	56,430
FL	E2009-BUSP-269		Palm Tran Green Bus Replacement	712,500
FL	E2009-BUSP-270		Palm Tran Park and Ride Facilities, Palm Beach County	475,000
FL	E2009-BUSP-271		Pembroke Pines Senior Center Bus Procurement	475,000
FL	E2009-BUSP-272	600	Pinellas County Metropolitan Planning Organization-Pinellas Mobility Initiative: BRT and Guide way	274,000
FL	E2009-BUSP-273		Polk County Transit System	285,000
FL	E2009-BUSP-274	415	Purchase Buses and construct bus facilities in Broward County, FL	507,870
FL	E2009-BUSP-275	420	Purchase Buses and construct bus facilities in Broward County, FL	451,440
FL	E2009-BUSP-276	400	South FL Region, FL Regional Universal Automated Fare Collection System (UAFC) (for bus system)	451,440
FL	E2009-BUSP-277	623	South Florida Regional Transportation Authority-West Palm Beach Intermodal Facility	549,000
FL	E2009-BUSP-278	622	South Florida Regional Transportation Authority-West Palm Improvements, for any activity eligible under section 5309	4,114,000
FL	E2009-BUSP-279	31	St. Augustine, Florida-Intermodal Transportation Center and related pedestrian and landscape improvements	225,720
FL	E2009-BUSP-280	667	St. Johns County Council on Aging buses and bus facilities	67,716 c/
FL	E2009-BUSP-281	390	St. Lucie County, FL Purchase Buses	225,720
FL	E2009-BUSP-282	402	Tampa, FL Establish Transit Emphasis Corridor Project	169,290
FL	E2009-BUSP-283	148	Tampa, FL Purchase buses and construct bus facilities	507,870
FL	E2009-BUSP-284		Hillsborough Area Regional Transit Authority (HART) Bus and Para-transit Acquisition	2,185,000
FL	E2009-BUSP-285		LYNX Buses, Orlando	2,850,000
GA	E2009-BUSP-286	355	Albany, GA Bus replacement	67,716
GA	E2009-BUSP-287	255	Albany, GA Multimodal Facility	180,576
GA	E2009-BUSP-288	357	Athens, GA Buses and Bus Facilities	320,522
GA	E2009-BUSP-289		Athens-Clarke County Transit, Bus Procurement	1,330,000
GA	E2009-BUSP-290	247	Atlanta, GA Inter-modal Passenger Facility Improvements	451,440
GA	E2009-BUSP-291	384	Atlanta, GA MARTA Clean Fuel Bus Acquisition	1,354,320
GA	E2009-BUSP-292	469	Auburn University-Intermodal Parking Garage	1,097,000
GA	E2009-BUSP-293	144	Augusta, GA Buses and Bus Facilities	90,288
GA	E2009-BUSP-294		Bus and Related Facilities Replacement, Albany	475,000
GA	E2009-BUSP-295		Chatham Area Transit (CAT) Bus Replacement	665,000
GA	E2009-BUSP-296	110	Cobb County, GA Cobb County Smart Card Technology/ Bus Facility Improvements	225,720
GA	E2009-BUSP-297	91	Columbus, GA Bus replacement	67,716
GA	E2009-BUSP-298	510	Columbus, Georgia/Phoenix City, Alabama-National Infantry Museum Multimodal Facility	466,000
GA	E2009-BUSP-299	49	Columbus, Georgia-Buses & Bus Facilities	218,723
GA	E2009-BUSP-300	530	Georgia Department of Transportation-Georgia Statewide Bus and Bus Facilities	2,468,000

FEDERAL TRANSIT ADMINISTRATION

TABLE 10A

FY 2009 Section 5309 Bus and Bus Facility Allocations

State	Earmark ID	SAFETEA-LU Project No.	Project	Allocation
GA	E2009-BUSP-301	60	Georgia Statewide Bus Program	45,144
GA	E2009-BUSP-302		GRTA Park and Ride Facility, Rockdale County	190,000
GA	E2009-BUSP-303		Intermodal Facility, Moultrie	712,500
GA	E2009-BUSP-304	275	Jesup, Georgia-Train Depot intermodal center	225,720
GA	E2009-BUSP-305		MARTA Clean Fuel Buses and Facilities	1,330,000
GA	E2009-BUSP-306	374	Metro-Atlanta, GA MARTA Automated Smart-Card Fare Collection System	225,720
GA	E2009-BUSP-307	406	Moultrie, GA Inter-modal facility	67,716
GA	E2009-BUSP-308	329	Quitman, Clay, Randolph, Stewart Co., GA Bus project	56,430
GA	E2009-BUSP-309	256	Savannah, GA Bus and Bus Facilities-Chatham Area Transit	1,128,600
GA	E2009-BUSP-310	348	Savannah, Georgia-Water Ferry River walk intermodal facilities	451,440
GA	E2009-BUSP-311	206	Sylvester, GA Inter-modal Facility	45,144
GA	E2009-BUSP-312	298	Thomasville, GA Bus Replacement	45,144
GU	E2009-BUSP-313		Guam Mass Transit Bus Maintenance Facility	237,500
GU	E2009-BUSP-314		Guam Mass Transit Hybrid/CNG New Bus Procurement	475,000
HI	E2009-BUSP-315		County of Hawaii Vehicle Enhancement Project	380,000
HI	E2009-BUSP-316	540	Honolulu, HI, Bus Facilities	1,300,000
HI	E2009-BUSP-317		Rural Bus Program for Hawaii, Maui, and Kauai	1,900,000
IA	E2009-BUSP-318	440	Ames, Iowa-Expansion of CyRide Bus Maintenance Facility	451,440
IA	E2009-BUSP-319	475	Black Hawk County, IA UNI Multimodal Project	823,000
IA	E2009-BUSP-320	242	Des Moines, IA Purchase 40 foot buses	225,750
IA	E2009-BUSP-321		Dubuque Downtown Transportation Center Intermodal Facility, Dubuque	237,500
IA	E2009-BUSP-322	545	Iowa Department of Transportation-Iowa Statewide Buses and Bus Replacement	3,291,000
IA	E2009-BUSP-323		Transit Bus and Bus Replacement	3,800,000
IA	E2009-BUSP-324		Transit Maintenance Facility, Davenport	380,000
ID	E2009-BUSP-325	176	Boise, ID-Multimodal facility	1,015,740
ID	E2009-BUSP-326	543	Idaho Department of Transportation - Idaho Statewide ITS for Public Transportation	411,000
ID	E2009-BUSP-327		Idaho Transit Coalition Buses and Bus Facilities	4,845,000
ID	E2009-BUSP-328		Treasure Valley Transit Facilities	475,000
ID	E2009-BUSP-329	652	Valley Regional Transit, ID-Downtown Boise Multimodal	1,590,000
IL	E2009-BUSP-330	433	Centralia, Illinois-South Central Mass Transit District Improvements	90,288
IL	E2009-BUSP-331	226	Champaign, IL-Construct park and ride lot with attached daycare facility	338,580
IL	E2009-BUSP-332	221	Chicago, IL Construct intermodal facility at 35th Street at Metra Ride Line (Northside)	1,128,600
IL	E2009-BUSP-333	219	Chicago, IL Feasibility Study for intermodal station on the Metra Rock Island near Kennedy-King College	67,716
IL	E2009-BUSP-334	358	Cicero, Chicago Establish Transit Signal Priority, Cicero Ave., Pace Suburban Bus	225,720
IL	E2009-BUSP-335	4	Des Plaines, Wauconda, Cook and Lake Counties, IL Rand Road Transit Signal Priority	180,576
IL	E2009-BUSP-336	296	Elgin to Rockford, Illinois-Intermodal stations along planned Metra Union Pacific West Line extension alignment, including necessary alternatives analysis	112,860
IL	E2009-BUSP-337	114	Geneva, Illinois-Construct commuter parking deck for Metra Service	902,880
IL	E2009-BUSP-338	291	Joliet, Illinois-Union Station commuter parking facility	648,945
IL	E2009-BUSP-339	250	Maywood, IL Purchase buses	11,286
IL	E2009-BUSP-340		METRA's Rock Island 35th St., Station Improvements	712,500
IL	E2009-BUSP-341		Multimodal Center, Normal	237,500
IL	E2009-BUSP-342	429	Normal, Illinois-Multimodal Transportation Center	451,440
IL	E2009-BUSP-343	163	Normal, Illinois-Multimodal Transportation Center, including facilities for adjacent public and nonprofit uses	1,128,600
IL	E2009-BUSP-344	491	Pace IL, Cermak Road, Bus Rapid Transit, and related bus projects, and alternatives analysis	500,000 a/
IL	E2009-BUSP-345	135	Pace Suburban Bus, IL - Purchase vehicles	225,720 a/
IL	E2009-BUSP-346	365	Pace Suburban Bus, IL South Suburban BRT Mobility Network	112,860
IL	E2009-BUSP-347		Paratransit Vehicles, West Central Mass Transit District	104,500
IL	E2009-BUSP-348		Replacement Heavy Duty Transit Buses, Madison County Mass Transit District	475,000
IL	E2009-BUSP-349		Replacement of Paratransit Vehicles, Greater Peoria Mass Transit District, Peoria	380,000
IL	E2009-BUSP-350	404	Rock Island, IL Improve Rock Island Mass Transit District Bus Facility	112,860
IL	E2009-BUSP-351	608	Rock Island, Illinois, Metrolink Transit Maintenance Facility	500,000
IL	E2009-BUSP-352	632	Springfield, IL, Multimodal Transit Terminal	1,800,000
IL	E2009-BUSP-353	259	St. Charles, IL-Intermodal Parking Structures	1,015,740
IL	E2009-BUSP-354		State of Illinois Downstate Bus and Bus Facilities	4,750,000
IL	E2009-BUSP-355		Toyota Park Pace Transit Center	475,000
IL	E2009-BUSP-356	265	Village of Tinley Park, Illinois, 80th Avenue Commuter Rail Station reconstruction and site enhancements	180,576
IN	E2009-BUSP-357	109	Bloomington, IN-Bus and transfer facility	1,085,713
IN	E2009-BUSP-358		CityBus Hybrid Bus Procurement, Lafayette	2,945,000
IN	E2009-BUSP-359	529	Gary, Indiana, Gary Airport Station Modernization and Shuttle Service Project	500,000
IN	E2009-BUSP-360	544	Indianapolis Downtown Transit Center	1,200,000
IN	E2009-BUSP-361	235	Indianapolis, IN Construct the Ivy Tech State College Multi-Modal Facility	1,128,600
IN	E2009-BUSP-362	5	Indianapolis, IN Downtown Transit Center	3,160,080
IN	E2009-BUSP-363	220	Indianapolis, IN IndySMART program to relieve congestion, improve safety and air quality	451,440

FEDERAL TRANSIT ADMINISTRATION

TABLE 10A

FY 2009 Section 5309 Bus and Bus Facility Allocations

State	Earmark ID	SAFETEA-LU Project No.	Project	Allocation
IN	E2009-BUSP-364	378	Indianapolis, IN Relocate and improve inter-modal transportation for pedestrian to Children's Museum of Indianapolis	3,160,080
IN	E2009-BUSP-365	417	Indianapolis, Indiana-Children's Museum Intermodal Center	225,720
IN	E2009-BUSP-366		IndyGo Fixed Route Bus Fleet Expansion	712,500
IN	E2009-BUSP-367		Ivy Tech Multimodal Facility, Indianapolis	475,000
IN	E2009-BUSP-368	546	Ivy Tech State College, Indiana Multimodal Center	400,000
IN	E2009-BUSP-369		Park and Ride Facility, Indiana University	475,000
IN	E2009-BUSP-370	617	South Bend, Indiana, TRANSPO Bus Operations Center	1,200,000
IN	E2009-BUSP-371	141	South Bend, Indiana-Construct South Bend Bus Operations Center	225,720
IN	E2009-BUSP-372	637	Terre Haute, Indiana--Cherry Street Joint Development Project	1,200,000
KS	E2009-BUSP-373		Bus and Bus Facilities, City of Lawrence	950,000
KS	E2009-BUSP-374	53	Johnson Co., KS Bus and bus related facilities [I-35. corridor], Johnson Co. Transit	451,440
KS	E2009-BUSP-375	551	Kansas City Area Transportation Authority-Bus Project	2,742,000
KS	E2009-BUSP-376	552	Kansas Department of Transportation-Kansas Statewide Transit Buses, Bus Facilities, and Bus ITS	3,291,000
KS	E2009-BUSP-377		Replacement of Bus Fleet in Topeka	475,000
KS	E2009-BUSP-378		Unified Government Transit, Bus Replacements, Bus Expansions and Bus Facilities	475,000
KY	E2009-BUSP-379		Bus Facilities, Fulton County Transit Authority	237,500
KY	E2009-BUSP-380		Bus Replacement Program, TANK, Fort Wright	1,900,000
KY	E2009-BUSP-381		Frankfort Transit	950,000
KY	E2009-BUSP-382		Intermodal Transit Facility for LKLP Community Action Council, Hazard	237,500
KY	E2009-BUSP-383		Non-Emergency Medical and Independent Living Activities Transportation for Older Adults, La Grange	76,950
KY	E2009-BUSP-384		Paducah Area Transit System	2,375,000
KY	E2009-BUSP-385	372	Richmond, KY Purchase buses, bus equipment and facilities	162,518
KY	E2009-BUSP-386		Route System Project, Murray Calloway Transit Authority, Murray	1,496,250
KY	E2009-BUSP-387		TARC Clean Bus Program	475,000
KY	E2009-BUSP-388		Transit Authority of Lexington Bus Purchase Project	2,945,000
KY	E2009-BUSP-389	639	Transit Authority of Lexington, KY-Rehabilitation of Building for Maintenance and Administration	1,097,000
LA	E2009-BUSP-390	484	Capital Area Transit System-Baton Rouge BRT	823,000
LA	E2009-BUSP-391	72	Hammond, Louisiana-Passenger Intermodal facility at Southeastern University	45,144
LA	E2009-BUSP-392	555	Lafayette City-Parish Consolidated Government, LA-Lafayette Multimodal Transportation Facility	274,000
LA	E2009-BUSP-393	556	Lafayette, Indiana, City Bus of Greater Lafayette	750,000
LA	E2009-BUSP-394	239	Lafayette, Louisiana-Lafayette Transit System bus replacement program	203,148
LA	E2009-BUSP-395	356	Lafayette, Louisiana-Multimodal center, Final Phase	677,160
LA	E2009-BUSP-396	568	Louisiana Department of Transportation and Development-Statewide Vehicles and Equipment	274,000
LA	E2009-BUSP-397		Louisiana Statewide Bus and Bus Facility	380,000
LA	E2009-BUSP-398	170	Louisiana-Construct pedestrian walkways between Caddo St. and Milam St. along Edwards St. in Shreveport, LA	228,720
LA	E2009-BUSP-399	55	New Orleans, LA Inter-modal Riverfront Center	112,860
LA	E2009-BUSP-400	67	New Orleans, LA Plan and construct New Orleans Union Passenger Terminal intermodal facilities	225,720
LA	E2009-BUSP-401	243	New Orleans, LA Regional Planning Commission, bus and bus facilities	112,860
LA	E2009-BUSP-402	310	River Parishes, LA South Central Planning and Development Commission, bus and bus facilities	225,720
LA	E2009-BUSP-403	606	River Parishes, Louisiana, South Central Planning and Development Commission, bus and bus facilities	220,000
LA	E2009-BUSP-404	277	Shreveport, LA-intermodal Transit Facility	756,162
LA	E2009-BUSP-405	625	Southeastern Louisiana University Intermodal Facility	700,000
LA	E2009-BUSP-406		Southern University Intermodal Transit Facility System	475,000
LA	E2009-BUSP-407	283	St. Bernard Parish, LA Intermodal facility improvements	225,720
MA	E2009-BUSP-408	118	Attleboro, MA Construction, engineering and site improvements at the Attleboro Intermodal Center	451,440
MA	E2009-BUSP-409	59	Beverly, MA Design and Construct Beverly Deport Intermodal Transportation Center	451,440
MA	E2009-BUSP-410	273	Boston, MA Harbor Park Pavilion & Inter-modal Station	282,150
MA	E2009-BUSP-411		Brockton Area Transit Authority (BAT) Bus Replacement	237,500
MA	E2009-BUSP-412	174	Brockton, MA Bus replacement for the Brockton Area Transit Authority	338,580
MA	E2009-BUSP-413		Bus Terminal, Fall River	950,000
MA	E2009-BUSP-414		Chelsea Intermodal Parking Garage, Chelsea	855,000
MA	E2009-BUSP-415	330	Framingham, MA Local Intra-Framingham Transit System enhancements	406,296
MA	E2009-BUSP-416		FRTA and FRCOD Transit Center, Greenfield	1,900,000
MA	E2009-BUSP-417	124	Haverhill, MA Design and Construct Inter-modal Transit Parking Improvements	1,264,032
MA	E2009-BUSP-418	21	Hingham, MA Higham Marine Intermodal Center Improvements: Enhance public transportation infrastructure/parking	2,031,480
MA	E2009-BUSP-419		Holyoke Intermodal Center	142,500
MA	E2009-BUSP-420		Intermodal Station Improvements, Cities of Salem and Beverly	783,750

FEDERAL TRANSIT ADMINISTRATION

TABLE 10A

FY 2009 Section 5309 Bus and Bus Facility Allocations

State	Earmark ID	SAFETEA-LU Project No.	Project	Allocation
MA	E2009-BUSP-421		Intermodal Transit Parking Facility, Haverhill	475,000
MA	E2009-BUSP-422	563	Lawrence, MA, Gateway Intermodal and Quadant Area Reuse Project	1,150,000
MA	E2009-BUSP-423	280	Lowell, MA Implementation of LRTA bus replacement plan	225,720
MA	E2009-BUSP-424	569	Lowell, MA, Lowell Regional Transit	1,150,000
MA	E2009-BUSP-425	42	Medford, MA Downtown revitalization featuring construction of a 200 space Park and Ride Facility	451,440
MA	E2009-BUSP-426	257	Newburyport, MA Design and Construct Intermodal Facility	451,440
MA	E2009-BUSP-427		North Leominster Commuter Station Parking, Leominster	1,900,000
MA	E2009-BUSP-428	139	Quincy, MA MBTA Purchase high speed catamaran ferry for Quincy Harbor Express Service	451,440
MA	E2009-BUSP-429		Rapid Transit Handicap Accessibility, Newton	380,000
MA	E2009-BUSP-430	161	Revere, MA Inter-modal transit improvements in the Wonderland station (MBTA) area	406,296
MA	E2009-BUSP-431	88	Rockport, MA Rockport Commuter Rail Station Improvements	620,730
MA	E2009-BUSP-432	370	Salem, MA Design and Construct Salem Intermodal Transportation Center	451,440
MA	E2009-BUSP-433		Salem, Saugus, Topsfield Vans	212,800
MA	E2009-BUSP-434		Southeastern Regional Transit Authority (SRTA) Bus Fleet Replacement	665,000
MA	E2009-BUSP-435	205	Woburn, MA Construction of an 89 space park and ride facility to be located on Magazine Hill, in the Heart of Woburn Square	406,296
MA	E2009-BUSP-436		Wonderland Station Intermodal Transit Improvements, City of Revere	950,000
MD	E2009-BUSP-437	122	Baltimore, MD Construct Intercity Bus Intermodal Terminal	1,128,600
MD	E2009-BUSP-438		Central Maryland Transit Operations Facility	475,000
MD	E2009-BUSP-439		Howard County Hybrid Electric Buses	475,000
MD	E2009-BUSP-440	303	Howard County, MD Construct Central Maryland Transit Operations and Maintenance Facility	1,128,600
MD	E2009-BUSP-441	542	Howard County, MD Construct Central Maryland Transit Operations and Maintenance Facility	200,000
MD	E2009-BUSP-442	571	MARC Intermodal Odenton and Edgewood Station Improvements	418,000
MD	E2009-BUSP-443	573	Maryland Statewide Bus Facilities and Buses	7,250,000
MD	E2009-BUSP-444	224	Montgomery County, MD Wheaton CBD Intermodal Access Program	112,860
MD	E2009-BUSP-445	214	Mount Rainier, MD Intermodal and Pedestrian Project	101,574
MD	E2009-BUSP-446	8	Silver Spring, MD Construct Silver Spring Transit Center in downtown Silver Spring	823,878
MD	E2009-BUSP-447		Southern Maryland Commuter Bus Initiative	950,000
MD	E2009-BUSP-448	629	Southern Maryland Commuter Initiative	3,500,000
MD	E2009-BUSP-449		Statewide Locally Operated Transit Systems (LOTS), Bus and Facility Improvements	1,900,000
MD	E2009-BUSP-450		WMATA Bus and Bus Facility Safety Initiative	475,000
ME	E2009-BUSP-451	19	Bar Harbor, ME Purchase new buses to enhance commuting near the Jackson Labs	67,716
ME	E2009-BUSP-452		Clean Fuel Buses, Portland	475,000
ME	E2009-BUSP-453	570	Maine DOT Acadia Intermodal Passenger and Maintenance Facility	823,000 a/
MI	E2009-BUSP-454	301	Barry County, MI-Barry County Transit equipments and dispatching software	33,858
MI	E2009-BUSP-455		Belding Dial-a-Ride Vehicle and Equipment Acquisition	99,560
MI	E2009-BUSP-456		Benzie Transportation Authority	190,000
MI	E2009-BUSP-457	204	Boysville of Michigan Transportation System	758,419
MI	E2009-BUSP-458		Branch Area Transit Authority Bus Replacement	190,000
MI	E2009-BUSP-459		Bus Replacement and Routing Software Purchase, St. Joseph County Transportation Authority	142,500
MI	E2009-BUSP-460		Bus Replacement, Sanilac County	95,000
MI	E2009-BUSP-461		Cadillac Wexford Transit Authority	285,000
MI	E2009-BUSP-462		Capital Area Transit Administration (CATA) Bus Storage Renovation, Lansing	712,500
MI	E2009-BUSP-463		Capital Area Transit Administration (CATA) Buses and Bus Facilities, Lansing	1,900,000
MI	E2009-BUSP-464		Caro Transit Authority Bus Replacement, Caro	285,000
MI	E2009-BUSP-465		City of Detroit Replacement Buses	712,500
MI	E2009-BUSP-466		City of Detroit/Farebox Improvements	1,425,000
MI	E2009-BUSP-467		City of Hillsdale Dial-A-Ride Bus Replacement	95,000
MI	E2009-BUSP-468	502	City of Kalamazoo, MI bus Replacement	1,400,000
MI	E2009-BUSP-469	319	Detroit Bus Maintenance Facility	2,031,480
MI	E2009-BUSP-470	522	Detroit Department of Transportation Bus Replacement	2,300,000
MI	E2009-BUSP-471	2	Detroit Fare Collection System	902,880
MI	E2009-BUSP-472	156	Detroit Replacement Buses	1,128,600
MI	E2009-BUSP-473	320	Detroit, MI Bus Replacement	1,692,900
MI	E2009-BUSP-474	9	Detroit, MI Enclosed heavy-duty maintenance facility with full operational functions for up to 300 buses	1,015,740
MI	E2009-BUSP-475	208	Eastern Upper Peninsula, MI Ferry Dock and Facility upgrades for Drummond Island Ferry Services	56,430
MI	E2009-BUSP-476	526	Flint, MI, Mass Transportation Authority Bus Maintenance Facility	150,000
MI	E2009-BUSP-477	531	Grand Rapids, Michigan, The Rapid, Bus Replacement	1,750,000
MI	E2009-BUSP-478	249	Grand Rapids, MI-Purchase replacement and expansion buses	3,306,798
MI	E2009-BUSP-479		Greater Lapeer Transportation Authority Bus Replacement	95,000
MI	E2009-BUSP-480		Harbor Transit	152,000
MI	E2009-BUSP-481	79	Ionia County, MI-Purchase and Implementation of communication equipment improvements	133,175
MI	E2009-BUSP-482		Ionia Dial-a-Ride Vehicle and Equipment Acquisition	216,600
MI	E2009-BUSP-483		Kalamazoo Metropolitan Transit Facility Expansion, Kalamazoo	950,000

FEDERAL TRANSIT ADMINISTRATION

TABLE 10A

FY 2009 Section 5309 Bus and Bus Facility Allocations

State	Earmark ID	SAFETEA-LU Project No.	Project	Allocation
MI	E2009-BUSP-484	560	Lansing, MI, Capital Area Transportation Authority, Bus Replacement and Bus Related ITS	1,050,000
MI	E2009-BUSP-485		Ludington Mass Transit	190,000
MI	E2009-BUSP-486		Macatawa Area Express Holland	256,500
MI	E2009-BUSP-487	572	Marquette County, Michigan Transit Authority Bus passenger facility	300,000
MI	E2009-BUSP-488		Marshall Dial-A-Ride Bus Replacement	95,000
MI	E2009-BUSP-489	581	Michigan Department of Transportation (MDOT) Bus Replacement	2,600,000
MI	E2009-BUSP-490		Michigan Transportation Authority Bus Replacement and Routing Software Purchase, Van Buren County	142,500
MI	E2009-BUSP-491		Muskegon Area Transit System	427,500
MI	E2009-BUSP-492	293	Muskegon, Michigan-Muskegon Area Transit Terminal and related improvements	451,440
MI	E2009-BUSP-493		Niles Dial-a-Ride Bus Acquisition	228,000
MI	E2009-BUSP-494	601	Port Huron, Michigan, Blue Water Area Transportation Commission, Bus Maintenance Facility	1,750,000
MI	E2009-BUSP-495		Saginaw Transit Authority, Bus and Transit Improvements	190,000
MI	E2009-BUSP-496	634	Suburban Mobility Authority for Regional Transportation (SMART) Bus Maintenance Facility	2,250,000
MI	E2009-BUSP-497		Yates Dial-A-Ride	190,000
MI	E2009-BUSP-498		Suburban Mobility Authority for Regional Transit (SMART) Fleet Bus Maintenance and Engine Replacement	3,923,500
MN	E2009-BUSP-499		Cedar Avenue Bus Rapid Transit	950,000
MN	E2009-BUSP-500	40	Duluth, MN Downtown Duluth Area Transit facility improvements	451,440
MN	E2009-BUSP-501	177	Fond du Lac Reservation, MN Purchase buses	33,858
MN	E2009-BUSP-502		Greater Minnesota Transit Capital	2,850,000
MN	E2009-BUSP-503	577	Metro Transit/Metropolitan Council, MN-Bus/Bus Capital	2,606,000
MN	E2009-BUSP-504		Red Rock Corridor Intermodal Bus and Bus Facilities, Newport	475,000
MN	E2009-BUSP-505	185	St. Paul to Hinckley, MN Construct bus amenities along Rush Line Corridor	338,580
MN	E2009-BUSP-506	342	St. Paul, MN Union Depot Multi Modal Transit Facility	451,440
MN	E2009-BUSP-507		Transit Operations Center, Rochester	712,500
MO	E2009-BUSP-508	473	Bi-State Development Agency-St. Louis Bridge Repair/Reconstruction, for any activity eligible under section 5309	1,372,000
MO	E2009-BUSP-509	474	Bi-State Development Agency-St. Louis Metro Bus Fare Collection Program	4,388,000
MO	E2009-BUSP-510	345	Kansas City, MO Bus Transit Infrastructure	225,720
MO	E2009-BUSP-511		KCATA Bus Replacement, Kansas City	285,000
MO	E2009-BUSP-512	598	OATS, Incorporated, Bus and Bus Facilities	4,663,000 e/
MO	E2009-BUSP-513	624	Southeast Missouri Transportation Service-Bus Project	549,000
MO	E2009-BUSP-514		Springdale Metrolink Station, St. Louis County	380,000
MO	E2009-BUSP-515		St. Louis Metro Bus and Paratransit Rolling Stock Project	3,800,000
MO	E2009-BUSP-516		Statewide Bus and Bus Facilities	1,900,000
MS	E2009-BUSP-517	130	Coahoma County, Mississippi Purchase buses for the Aaron E. Henry Community Health Services Center, Inc./DARTS transit service	33,858
MS	E2009-BUSP-518		Harrison County Multi-Modal Facilities	2,850,000
MS	E2009-BUSP-519	547	Jackson State University, MS-Busing Project	1,372,000
MS	E2009-BUSP-520		JATRAN Light Rail Feasibility Study	475,000
MT	E2009-BUSP-521	129	Bozeman, Montana-Vehicular Parking Facility	902,880
MT	E2009-BUSP-522	476	Bozeman, MT, Intermodal and parking facility	176,000
MT	E2009-BUSP-523	584	Montana Department of Transportation-Statewide Bus Facilities and Buses	823,000
MT	E2009-BUSP-524		Montana Paratransit System Bus Replacement, Billings	247,000
NC	E2009-BUSP-525		Bus Improvements, Durham	475,000
NC	E2009-BUSP-526		Bus Replacement for Asheville Transit System	237,500
NC	E2009-BUSP-527		Cape Fear PTA Transfer and Administration Facility	475,000
NC	E2009-BUSP-528		Capital Area Transit Operations and Maintenance Facility, Raleigh	1,425,000
NC	E2009-BUSP-529	490	Charlotte Area Transit System/City of Charlotte-Charlotte Multimodal Station	2,742,000
NC	E2009-BUSP-530	217	Charlotte, NC Construct Charlotte Multimodal Station	1,760,616
NC	E2009-BUSP-531	351	Charlotte, North Carolina-Eastland Community Transit Center	451,440
NC	E2009-BUSP-532	228	Charlotte, North Carolina-Multimodal Station	902,880
NC	E2009-BUSP-533	154	City of Greenville, NC Expansion Buses and Greenville Intermodal Center	804,466
NC	E2009-BUSP-534	324	Elon, North Carolina-Piedmont Authority for Regional Transportation buses and bus facilities	270,864
NC	E2009-BUSP-535		Goldsboro Union Depot Multimodal	855,000
NC	E2009-BUSP-536		Greensboro Maintenance/Operations Transit Facility, Greensboro	1,140,000
NC	E2009-BUSP-537	302	Greensboro, North Carolina-Piedmont Authority for Regional Transportation Multimodal Transportation Center	2,826,014
NC	E2009-BUSP-538	52	Greensboro, North Carolina-Replacement buses	1,304,662
NC	E2009-BUSP-539	537	High Point, NC-Intermodal Facility	329,000
NC	E2009-BUSP-540	335	High Point, North Carolina-Bus Terminal	1,354,320
NC	E2009-BUSP-541	594	North Carolina Department of Transportation-North Carolina Statewide Bus and Bus Facilities	6,856,000
NC	E2009-BUSP-542	143	Raleigh, NC Purchase eighteen replacement buses to replace buses that have reached their useful life according to Federal Transit Administration regulations	451,440
NC	E2009-BUSP-543		Replacement and Expansion Buses, City of Raleigh	950,000
NC	E2009-BUSP-544	134	Town of Chapel Hill, NC Park and Ride Lot	338,580

FEDERAL TRANSIT ADMINISTRATION

TABLE 10A

FY 2009 Section 5309 Bus and Bus Facility Allocations

State	Earmark ID	SAFETEA-LU Project No.	Project	Allocation
NC	E2009-BUSP-545	57	Wilmington, NC maintenance and operations facilities and administration and transfer facilities	225,720 a/
ND	E2009-BUSP-546		ND Statewide Transit	1,900,000
ND	E2009-BUSP-547	595	North Dakota Department of Transportation/Statewide Bus	1,600,000
NE	E2009-BUSP-548	505	City of Omaha-Creighton University Intermodal Facility	823,000
NE	E2009-BUSP-549	160	Kearney, Nebraska-RYDE Transit Bus Maintenance and Storage Facility	451,440
NE	E2009-BUSP-550	586	Nebraska Department of Roads-Bus Maintenance and Storage Facility for RYDE in Kearney, NE	549,000
NE	E2009-BUSP-551	587	Nebraska Department of Roads-Statewide Vehicles, Facilities, and Related Equipment Purchases	1,097,000
NE	E2009-BUSP-552	240	Nebraska-statewide transit vehicles, facilities, and related equipment	902,880
NE	E2009-BUSP-553	599	Omaha, NE, Buses and Fare boxes	740,000
NH	E2009-BUSP-554		Statewide Bus and Bus Facilities, Concord	475,000
NH	E2009-BUSP-555		UNH Wildcat Transit Fleet, Durham	190,000
NH	E2009-BUSP-556	418	Windham, New Hampshire--Construction of Park and Ride Bus facility at Exit 3	835,164
NJ	E2009-BUSP-557	468	Atlantic City, NJ Jitney	750,000
NJ	E2009-BUSP-558		Bloomfield Intermodal Improvements	1,900,000
NJ	E2009-BUSP-559	86	Burlington County, NJ-BurLink and Burlington County Transportation System vehicles and equipment	902,880
NJ	E2009-BUSP-560	28	Camden, NJ Construction of the Camden County Intermodal Facility in Cramer Hill	225,720
NJ	E2009-BUSP-561	12	Hoboken, NJ Rehabilitation of Hoboken Inter-modal Terminal	857,736
NJ	E2009-BUSP-562		Intermodal Transit Improvements, Northwest	712,500
NJ	E2009-BUSP-563	102	Jersey City, NJ Construct West Entrance to Pavonia-Newport PATH Station	451,440
NJ	E2009-BUSP-564		Lakewood Multi-Modal Initiative	1,021,250
NJ	E2009-BUSP-565	389	Lakewood, NJ-Ocean County Bus service and parking facilities	677,160
NJ	E2009-BUSP-566	138	Long Branch, NJ Determine scope, engineering, design and construct facilities for ferry service from Long Branch, NJ to New York City and other destinations	902,880 a/
NJ	E2009-BUSP-567	38	Monmouth County, NJ Construction of main bus facility for Freehold Township, including a terminal and repair shop	451,440
NJ	E2009-BUSP-568	209	Morristown, New Jersey-Intermodal Historic Station	225,720
NJ	E2009-BUSP-569		Morristown/Montclair-Boonton Commuter Rail Intermodal Improvements, Northern	950,000
NJ	E2009-BUSP-570	46	National Park Service Design and construct 2.1-mile segment to complete Sandy Hook multiuse pathway in Sandy Hook, NJ	225,720
NJ	E2009-BUSP-571		New Jersey Intermodal Facilities and Bus Rolling Stock	760,000
NJ	E2009-BUSP-572	340	New Jersey Inter-modal Facilities and Bus Rolling Stock	677,160
NJ	E2009-BUSP-573	328	New Jersey Transit Community Shuttle Buses	112,860
NJ	E2009-BUSP-574	13	Newark, NJ Penn Station Intermodal Improvements including the rehabilitation of boarding areas	225,720
NJ	E2009-BUSP-575	29	Sandy Hook, NJ National Park Service Construct year-round ferry dock at Sandy Hook Unit of Gateway National Recreation Area	225,720
NJ	E2009-BUSP-576		Senior Citizen Transportation Vehicle, North Arlington	95,000
NJ	E2009-BUSP-577		South Amboy Intermodal Station	475,000
NJ	E2009-BUSP-578	393	South Amboy, NJ Construction of improvements to facilities at South Amboy Station under S Amboy, NJ Regional Intermodal Initiative	1,805,760
NJ	E2009-BUSP-579		South Brunswick Municipal Area Residential Transit	380,000
NJ	E2009-BUSP-580	618	South Brunswick, NJ Transit System	1,000,000
NJ	E2009-BUSP-581		The Arc of Mercer County Mobile Transportation Service Vehicle Procurement	95,000
NJ	E2009-BUSP-582	643	Trenton Intermodal Station	4,000,000
NJ	E2009-BUSP-583	61	Trenton, New Jersey-Trenton Train Station Rehabilitation	338,580
NJ	E2009-BUSP-584	181	Trenton, NJ Development of Trenton Trolley System	225,720
NJ	E2009-BUSP-585	62	Trenton, NJ Reconstruction and rehabilitation of the Trenton Train Station	1,580,040
NM	E2009-BUSP-586		Albuquerque Transit Facility Rehabilitation, City of Albuquerque	92,625
NM	E2009-BUSP-587	464	Albuquerque, NM, Ride Bus and Bus Facilities	2,100,000
NM	E2009-BUSP-588		Bus Purchases, Albuquerque	950,000
NM	E2009-BUSP-589		City of Rio Rancho Transit Program	313,500
NM	E2009-BUSP-590		Design and Construction of an Intermodal Transportation Center for Los Lunas	950,000
NM	E2009-BUSP-591	562	Las Cruces, NM, Road Runner Bus and Bus Facilities	350,000
NM	E2009-BUSP-592	460	Mid-Region Council of Governments, New Mexico, public transportation buses, bus-related equipment and facilities, and intermodal terminals in Albuquerque and Santa Fe	500,000 d/
NM	E2009-BUSP-593		Navajo Transit Vehicles and Facilities	237,500
NM	E2009-BUSP-594		North Central Regional Transit Facilities	475,000
NM	E2009-BUSP-595		Transit Maintenance and Operations Facility, City of Las Cruces	617,500
NV	E2009-BUSP-596		Central City Intermodal Transfer Terminal	950,000
NV	E2009-BUSP-597		Lake Tahoe Bus Facilities	475,000
NV	E2009-BUSP-598	405	Las Vegas, NV Construct Boulder Highway BRT system and purchase vehicles and related equipment	451,440
NV	E2009-BUSP-599	199	Las Vegas, NV Construct Central City Inter-modal Transportation Terminal	1,354,320
NV	E2009-BUSP-600		Nevada Statewide Bus Facilities	1,425,000
NV	E2009-BUSP-601	371	Regional Transportation Commission of Southern Nevada, Sunset Bus Maintenance Facility	56,430 a/

FEDERAL TRANSIT ADMINISTRATION

TABLE 10A

FY 2009 Section 5309 Bus and Bus Facility Allocations

State	Earmark ID	SAFETEA-LU Project No.	Project	Allocation
NV	E2009-BUSP-602	603	Regional Transportation Commission of Southern Nevada-Central City Intermodal Transportation Terminal	1,097,000
NV	E2009-BUSP-603		Reno/Sparks Intermodal Transportation Center Developments	475,000
NV	E2009-BUSP-604	18	Reno-Sparks, Nevada-Intermodal Transportation Terminals and Related Development	902,880
NV	E2009-BUSP-605		Southern Nevada Transit Coalition Capital Equipment Acquisition	52,440
NV	E2009-BUSP-606	630	Southern Nevada Transit Coalition, Public Transit Building Acquisition	100,000
NV	E2009-BUSP-607	656	Washoe County, NV Bus and Bus Facilities	2,250,000
NY	E2009-BUSP-608	74	Albany-Schenectady, NY Bus Rapid Transit Improvements in NY Route 5. Corridor.	225,720
NY	E2009-BUSP-609	463	Albany-Schenectady, NY, Bus Rapid Transit Improvements in NY Route 5	1,500,000
NY	E2009-BUSP-610		Alternative Fuel Bus, Village of East Rockaway	380,000
NY	E2009-BUSP-611		Arverne East Transit Plaza	712,500
NY	E2009-BUSP-612		Bronx Zoo Intermodal Transportation Facility, Bronx	332,500
NY	E2009-BUSP-613	271	Bronx, NY Botanical Garden metro North Rail station Intermodal Facility	225,720
NY	E2009-BUSP-614	20	Bronx, NY Establish an intermodal transportation facility at the Wildlife Conservation Society Bronx Zoo	225,720
NY	E2009-BUSP-615	279	Bronx, NY Establish an intermodal transportation facility at the Wildlife Conservation Society Bronx Zoo	225,720
NY	E2009-BUSP-616	166	Bronx, NY Hebrew Home for the Aged elderly and disabled transportation support	42,323
NY	E2009-BUSP-617	338	Bronx, NY Intermodal Facility near Exit 6. of the Bronx River Parkway	56,430
NY	E2009-BUSP-618	234	Bronx, NY Jacobi Intermodal Center to North Central Bronx Hospital bus system	70,538
NY	E2009-BUSP-619	10	Bronx, NY Wildlife Conservation Society intermodal transportation facility at the Bronx Zoo	98,753
NY	E2009-BUSP-620	197	Brooklyn, NY Construct a multi-modal transportation facility	316,008
NY	E2009-BUSP-621	408	Brooklyn, NY Construct a multi-modal transportation facility in the vicinity of Downstate Medical Center	225,720
NY	E2009-BUSP-622	41	Brooklyn, NY New Urban Center-Broadway Junction Intermodal Center	216,691
NY	E2009-BUSP-623	56	Brooklyn, NY-Rehabilitation of Bay Ridge 86th Street Subway Station	902,880
NY	E2009-BUSP-624	419	Brooklyn, NY--Rehabilitation of Bay Ridge 86th Street Subway Station	902,880
NY	E2009-BUSP-625	192	Buffalo, NY Inter-modal Center Parking Facility	225,720
NY	E2009-BUSP-626		Bus Maintenance Facility Improvements, Westchester County	712,500
NY	E2009-BUSP-627	245	Bus to provide York-town, New York internal circulator to provide transportation throughout the Town	41,758
NY	E2009-BUSP-628		Capital District Transportation Authority Saratoga Bus Facility, Saratoga Springs	712,500
NY	E2009-BUSP-629		CDTA Replacement Buses	712,500
NY	E2009-BUSP-630		Central New York Regional Transportation Authority	950,000
NY	E2009-BUSP-631	230	Construction of Third Bus Depot on Staten Island	2,708,640
NY	E2009-BUSP-632	146	Cooperstown, New York-Intermodal Transit Center	1,128,600
NY	E2009-BUSP-633	363	Corning, New York-Transportation Center	1,128,600
NY	E2009-BUSP-634	284	Cornwall, NY-Purchase Bus	19,638
NY	E2009-BUSP-635	300	Geneva, New York-Multimodal facility-Construct passenger rail center	112,860
NY	E2009-BUSP-636		Glen Cove Connector Multi-Modal Parking Hub Design, Engineering and Construction	950,000
NY	E2009-BUSP-637	317	Jamestown, NY Rehabilitation of Intermodal Facility and associated property	451,440
NY	E2009-BUSP-638		Jewish Community Council of Rockland Transit Buses	380,000
NY	E2009-BUSP-639	343	Kings County, NY Construct a multi-modal transportation facility	225,720
NY	E2009-BUSP-640		Lincoln Center Corridor Redevelopment Project, New York	522,500
NY	E2009-BUSP-641	368	Nassau County, NY Conduct planning and engineering for transportation system (HUB)	1,580,040
NY	E2009-BUSP-642	585	Nassau County, NY, Conduct planning, engineering, and construction for transportation system (HUB)	1,500,000
NY	E2009-BUSP-643	25	New York City, NY First Phase Implementation of Bus Rapid Transit System	175,720 b/
NY	E2009-BUSP-644	376	New York City, NY Purchase Handicapped-Accessible Livery Vehicles	225,720
NY	E2009-BUSP-645	666	New York City, NY rehabilitation of subway stations to include passenger access improvements including escalators or installation of infrastructure for security and surveillance purposes.	50,000 c/
NY	E2009-BUSP-646	590	New York City, NY, Bronx Zoo Intermodal Facility	650,000
NY	E2009-BUSP-647	591	New York City, NY, Enhance Transportation Facilities Near W. 65th Street and Broadway	650,000
NY	E2009-BUSP-648	592	New York City, NY, Highline Project, for Studies, Design, and Construction	1,500,000
NY	E2009-BUSP-649	593	New York, Improvements to Moynihan Station	1,500,000
NY	E2009-BUSP-650		NFTA Hybrid Buses, Buffalo	475,000
NY	E2009-BUSP-651		Niagara Falls International Railway Station and Intermodal Transportation Center	950,000
NY	E2009-BUSP-652	77	Niagara Falls, NY Relocation, Development, and Enhancement of Niagara Falls International Railway Station/Intermodal Transportation Center	1,264,032
NY	E2009-BUSP-653	373	Niagara Frontier Transportation Authority, NY Replacement Buses	225,720
NY	E2009-BUSP-654	322	Oneonta, New York-bus replacement	33,858
NY	E2009-BUSP-655	379	Ramapo, NY Transportation Safety Field Bus	56,430
NY	E2009-BUSP-656		Rochester Genesee Regional Transportation Authority Satellite Transit Center Construction	237,500
NY	E2009-BUSP-657	252	Rochester, New York-Renaissance Square transit center	1,015,740
NY	E2009-BUSP-658	430	Rochester, New York-Renaissance Square Transit Center	507,870
NY	E2009-BUSP-659	607	Rochester, NY, Renaissance Square Intermodal Facility, Design and Construction	2,000,000
NY	E2009-BUSP-660	609	Rockland County, NY Express Bus	900,000

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TABLE 10A

FY 2009 Section 5309 Bus and Bus Facility Allocations

State	Earmark ID	SAFETEA-LU Project No.	Project	Allocation
NY	E2009-BUSP-661	386	Suffolk County, NY Design and construction of intermodal transit facility in Wyandanch	1,038,312
NY	E2009-BUSP-662	353	Suffolk County, NY Purchase four handicapped accessible vans to transport veterans to and from the VA facility in Northport	63,202
NY	E2009-BUSP-663	635	Syracuse, New York, Syracuse University Connective Corridor Transit Project	1,150,000
NY	E2009-BUSP-664	261	Thendra-Webb and Utica, New York-Install handicap lifts in intermodal centers	22,572
NY	E2009-BUSP-665	289	Town of Warwick, NY Bus Facility Warwick Transit System	124,146
NY	E2009-BUSP-666		Transit Improvements, Jacobi Medical Center	475,000
NY	E2009-BUSP-667	512	Transportation Center Enhancements, Corning, NY	650,000 a/
NY	E2009-BUSP-668	451	Utica, New York Transit Multimodal Facilities	1,350,000
NY	E2009-BUSP-669	78	Utica, New York-Union Station Boehlert Center siding track improvements	22,572
NY	E2009-BUSP-670	182	Utica, New York-Union Station rehabilitation and related infrastructure improvements	112,860
NY	E2009-BUSP-671	264	Westchester County, NY Bus replacement program	846,450
NY	E2009-BUSP-672	149	Yonkers, NY Trolley Bus Acquisition	84,645
OH	E2009-BUSP-673	362	Akron, OH Construct City of Akron Commuter Bus Transit Facility	338,580
OH	E2009-BUSP-674	318	Akron, Ohio Construct Downtown Multi-modal Transportation Center	902,880
OH	E2009-BUSP-675	105	Akron, Ohio-West Market Street transit center and related pedestrian improvements	146,718
OH	E2009-BUSP-676	489	Central Ohio Transit Authority-Paratransit and Small Bus Service Facility	549,000
OH	E2009-BUSP-677	241	Cincinnati, Ohio-Construct Uptown Crossings Joint Development Transit Project	677,160
OH	E2009-BUSP-678	89	Cincinnati, Ohio-Metro Regional Transit Hub Network Eastern Neighborhoods	208,791
OH	E2009-BUSP-679	327	Cleveland, OH Construct East Side Transit Center	677,160
OH	E2009-BUSP-680	202	Cleveland, OH Construct Fare Collection System Project, Cuyahoga County	112,860
OH	E2009-BUSP-681	179	Cleveland, OH Construct passenger inter-modal center near Dock 32	194,119
OH	E2009-BUSP-682	411	Cleveland, OH Construction of an inter-modal facility and related improvements at University Hospitals facility on Euclid Avenue	225,720
OH	E2009-BUSP-683	51	Cleveland, Ohio acquisition of buses Greater Cleveland Regional Transit Authority	225,720
OH	E2009-BUSP-684	258	Cleveland, Ohio-Euclid Avenue and East 93rd Street intermodal facility	1,918,620
OH	E2009-BUSP-685	198	Cleveland, Ohio-Euclid Avenue University Hospital intermodal facility	1,015,740
OH	E2009-BUSP-686	50	Cleveland, Ohio-University Circle Intermodal facility	1,918,620
OH	E2009-BUSP-687	380	Columbiana County, OH Construct Inter-modal Facility	1,128,600
OH	E2009-BUSP-688	7	Columbus, OH-Central Ohio Transit Authority Paratransit Facility	1,354,320
OH	E2009-BUSP-689	292	Cuyahoga County, Ohio-Ohio Department of Transportation transit improvements	33,858
OH	E2009-BUSP-690	516	Dayton-Wright Stop Plaza	549,000
OH	E2009-BUSP-691		Downtown Intermodal Facility and Associated Parking, Springfield	712,500
OH	E2009-BUSP-692	347	Eastlake, Ohio-Eastlake Stadium transit intermodal facility	959,310
OH	E2009-BUSP-693	309	Elyria, OH Construct the New York Central Train Station into an intermodal transportation hub	462,275
OH	E2009-BUSP-694	120	Greater Dayton Regional Transit Authority buses and bus facilities	169,290 a/
OH	E2009-BUSP-695		Greater Dayton RTA Bus Replacement	950,000
OH	E2009-BUSP-696	349	Kent, OH Construct Kent State University Intermodal Facility serving students and the general public	225,720
OH	E2009-BUSP-697	104	Marietta, Ohio Construction of transportation hub to accommodate regional bus traffic	112,860
OH	E2009-BUSP-698	576	Metro Regional Transit Authority/City of Akron-Downtown Transit Center/Akron	1,919,000
OH	E2009-BUSP-699	87	Niles, OH Acquisition of bus operational and service equipment of Niles Trumbull Transit	45,144
OH	E2009-BUSP-700		Prospect and E 21st Street Intermodal Transportation Center, Cleveland	190,000
OH	E2009-BUSP-701	385	Springfield, OH-City of Springfield Bus Transfer Station and Associated Parking	56,430
OH	E2009-BUSP-702		TARTA Bus and Bus Facilities Toledo	1,425,000
OH	E2009-BUSP-703	34	Toledo, OH TARTA/TARPS Passenger Inter-modal Facility construction	1,692,900
OH	E2009-BUSP-704	64	Zanesville, OH-bus system signage and shelters	18,340
OK	E2009-BUSP-705		Bus Replacement, Central Oklahoma Transportation and Parking Authority, Oklahoma City	712,500
OK	E2009-BUSP-706		Oklahoma Automated Vehicle Location System, Oklahoma City	237,500
OK	E2009-BUSP-707		Oklahoma City Bus Replacement	1,330,000
OK	E2009-BUSP-708		Sect. 5309 Capital Appropriation-Tulsa Transit	712,500
OR	E2009-BUSP-709	442	Albany, OR North Albany Park and Ride	214,971
OR	E2009-BUSP-710	165	Albany, OR Rehabilitate Building At Multimodal Transit Station	343,954
OR	E2009-BUSP-711	272	Bend, Oregon-replacement vans	225,720
OR	E2009-BUSP-712	66	Canby, OR bus and bus facilities	33,858
OR	E2009-BUSP-713	187	Columbia County, OR To purchase buses	31,601
OR	E2009-BUSP-714	299	Corvallis, OR Bus Replacement	333,206
OR	E2009-BUSP-715	159	Eugene, OR Lane Transit District, Vehicle Replacement	806,143
OR	E2009-BUSP-716	325	Grants Pass, OR Purchase Vehicles For Use By Josephine Community Transit	45,950
OR	E2009-BUSP-717	99	Gresham, Oregon Construct a new light rail station and transit plaza on Portland MAX system and serve Gresham Civic neighborhood	316,008
OR	E2009-BUSP-718	168	Lane Transit District, Bus Rapid Transit Progressive Corridor Enhancements	668,948
OR	E2009-BUSP-719	323	Lincoln, County, OR bus purchase	56,430
OR	E2009-BUSP-720	175	Molalla, OR South Clackamas Transportation District, bus purchase	22,572
OR	E2009-BUSP-721	16	Portland, OR Renovation of Union Station, including structural reinforcement and public safety upgrades	22,572
OR	E2009-BUSP-722	93	Salem, OR bus and bus facilities	451,440
OR	E2009-BUSP-723	106	Sandy, Oregon Transit Bus Facility	158,004

FEDERAL TRANSIT ADMINISTRATION

TABLE 10A

FY 2009 Section 5309 Bus and Bus Facility Allocations

State	Earmark ID	SAFETEA-LU Project No.	Project	Allocation
OR	E2009-BUSP-724	180	Tillamook, OR construction of a transit facility	22,572
OR	E2009-BUSP-725		Transit Bus and Bus Facilities, Salem-Keizer	475,000
OR	E2009-BUSP-726	216	Wilsonville, OR South Metro Area Rapid Transit, bus and bus facilities	56,430
OR	E2009-BUSP-727	82	Yamhill County, OR For the construction of bus shelters, park and ride facilities, and a signage strategy to increase ridership	24,829
OR	E2009-BUSP-728		Hillsboro Intermodal Transit Facility	1,852,500
PA	E2009-BUSP-729		69th Street Terminal Parking Facility, Upper Darby	380,000
PA	E2009-BUSP-730		Additional Fixed Route Vehicle, Lebanon	237,500
PA	E2009-BUSP-731	225	Allentown, Pennsylvania-Design and Construct Intermodal Transportation Center	451,440
PA	E2009-BUSP-732	456	Altoona Multimodal Transportation Facility Parking Garage	270,000
PA	E2009-BUSP-733	465	AMTRAN Altoona, PA-Buses and Transit System Improvements	823,000
PA	E2009-BUSP-734	467	Area Transportation Authority of North Central Pennsylvania-Vehicle Replacements	274,000
PA	E2009-BUSP-735	471	Beaver County, PA Transit Authority Bus Replacement/ Related Equipment Replacement	274,000
PA	E2009-BUSP-736		Bus and Bus Facilities, Westmoreland County Transit Authority	950,000
PA	E2009-BUSP-737		Bus Facilities, Cambria County Transit Authority	285,000
PA	E2009-BUSP-738		Bus Facilities, Fayette Area Coordinated Transportation	95,000
PA	E2009-BUSP-739		Bus Facility, AMTRAN Transit System	475,000
PA	E2009-BUSP-740		Bus Purchase, LANTA	475,000
PA	E2009-BUSP-741		Bus Replacement, Mid Mon Valley Transit Authority	760,000
PA	E2009-BUSP-742		Butler Multi-Modal Transit Center	237,500
PA	E2009-BUSP-743	481	Butler Township, PA-Cranbury Area Transit Service	960,000
PA	E2009-BUSP-744	428	Butler, PA-Multimodal Transit Center Construction	225,720
PA	E2009-BUSP-745	482	Cambria County, PA Transit Authority-Bus Replacements	823,000
PA	E2009-BUSP-746	123	Cheltenham, PA Glenside Rail Station Parking Garage project involving the construction of a 300-400 space parking lot at Easton Road and Glenside Avenue	225,720
PA	E2009-BUSP-747	500	City of Hazleton, PA-Hazleton Intermodal Center	384,000
PA	E2009-BUSP-748	513	County of Lackawanna Transit System-Scranton Intermodal Transportation Center	274,000
PA	E2009-BUSP-749	514	Cumberland-Dauphin-Harrisburg Transit Authority-Purchase of Buses and Spare Units	274,000
PA	E2009-BUSP-750	81	Easton, Pennsylvania-Design and construct Intermodal Transportation Center	451,440
PA	E2009-BUSP-751		EMTA Consolidated Transit Facility, Erie	475,000
PA	E2009-BUSP-752	524	Erie, PA Metropolitan Transit Authority-Bus Acquisitions	274,000
PA	E2009-BUSP-753	431	Erie, PA-EMTA Vehicle Acquisition	451,440
PA	E2009-BUSP-754	331	Gettysburg, Pennsylvania-transit transfer center	202,922
PA	E2009-BUSP-755	458	Hershey, Pennsylvania Intermodal Center and Parking Garage	135,000 b/
PA	E2009-BUSP-756		Hybrid Buses, Allegheny	475,000
PA	E2009-BUSP-757	233	Intermodal Facilities in Bucks County (Croydon and Levittown Stations)	677,160
PA	E2009-BUSP-758	457	Lancaster County, Pennsylvania Intermodal Center and Parking Facility	0 b/
PA	E2009-BUSP-759	37	Lancaster, PA-bus replacement	214,434
PA	E2009-BUSP-760	559	Lancaster, PA-Intermodal Project	192,000
PA	E2009-BUSP-761	564	Lehigh and Northampton Transportation Authority, PA-Allentown Intermodal Transportation Center	549,000
PA	E2009-BUSP-762	583	Monroe Township, PA-Clarion County Buses	181,000
PA	E2009-BUSP-763	588	New Castle, PA Area Transit Authority-Bus Purchases/Park and Ride Facility	203,000
PA	E2009-BUSP-764		PATCO Transit Station Improvements, Locust St., Philadelphia	760,000
PA	E2009-BUSP-765	201	Philadelphia, PA Cruise Terminal Transportation Ctr. Phila. Naval Shipyard	790,020
PA	E2009-BUSP-766	137	Philadelphia, PA Improvements to the existing Penn's Landing Ferry Terminal	902,880
PA	E2009-BUSP-767	413	Philadelphia, PA Penn's Landing water shuttle parking lot expansion and water shuttle ramp infrastructure construction	248,292
PA	E2009-BUSP-768	22	Philadelphia, PA Philadelphia Zoo Intermodal Transportation project w/parking consolidation, pedestrian walkways, public transportation complements & landscape improvements to surface parking lots	1,128,600
PA	E2009-BUSP-769	274	Philadelphia, PA SEPTA's Market St. Elevated Rail project in conjunction with Philadelphia Commercial Development Corporation for improvements and assistance to entities along rail corridor	316,008
PA	E2009-BUSP-770	316	Philadelphia, Pennsylvania-SEPTA Market Street Elevated Line parking facility	902,880
PA	E2009-BUSP-771	126	Pittsburgh, PA Clean Fuel Bus Procurement	112,860
PA	E2009-BUSP-772	397	Pottsville, PA Union Street Trade and Transfer Center Intermodal Facility	451,440
PA	E2009-BUSP-773	48	Project provides for the engineering and construction of a transportation center in Paoli, Chester County	225,720
PA	E2009-BUSP-774		Queen Street Station	2,850,000
PA	E2009-BUSP-775		River Valley Transit Bus and Bus Facility Enhancements	1,425,000
PA	E2009-BUSP-776	96	SEPTA Montgomery County Intermodal Improvements at Glenside and Jenkintown Station Parking Garages	1,128,600
PA	E2009-BUSP-777		Septa R7 Station Improvements, Croydon and Levittown	380,000
PA	E2009-BUSP-778	424	Sharon, PA-Bus Facility Construction	11,860
PA	E2009-BUSP-779	626	Southeastern Pennsylvania Transportation Authority-Bucks County Intermodal (Croydon and Levittown)	823,000
PA	E2009-BUSP-780	627	Southeastern Pennsylvania Transportation Authority-Paoli Transportation Center	823,000
PA	E2009-BUSP-781	628	Southeastern Pennsylvania Transportation Authority-Villanova-SEPTA Intermodal	823,000
PA	E2009-BUSP-782		TMA Clean Buses, Buck County	475,000
PA	E2009-BUSP-783	642	Transit Authority of Warren County, PA-Impact Warren	274,000

FEDERAL TRANSIT ADMINISTRATION

TABLE 10A

FY 2009 Section 5309 Bus and Bus Facility Allocations

State	Earmark ID	SAFETEA-LU Project No.	Project	Allocation
PA	E2009-BUSP-784		Union Station Intermodal Trade and Transit Center, Pottsville	475,000
PA	E2009-BUSP-785		Van Pool Equipment, Johnsonburg	285,000
PA	E2009-BUSP-786	33	Warren, PA-Construct Intermodal Transportation Center and related pedestrian and landscape improvements	338,580
PA	E2009-BUSP-787	660	Westmoreland County Transit Authority, PA-Bus Replacement	274,000
PA	E2009-BUSP-788	661	Wilkes-Barre Intermodal Facility	1,646,000
PA	E2009-BUSP-789	662	Williamsport, PA Bureau of Transportation-Williamsport Trade and Transit Centre Expansion	823,000
PA	E2009-BUSP-790	65	York, Pennsylvania-Rabbit Transit facilities and communications equipment	625,357
PR	E2009-BUSP-791	128	Bayamon, Puerto Rico-bus terminal	135,432
PR	E2009-BUSP-792	421	Bayamon, Puerto Rico-Purchase of Trolley Cars	191,862
PR	E2009-BUSP-793	3	Lares, PR-Trolley buses-for the purchase of two trolley buses that will offer transportation through the urban zone in the Municipality of Lares	59,590
PR	E2009-BUSP-794	164	Puerto Rico-Caribbean National Forest buses and nonprofit uses	677,160
PR	E2009-BUSP-795	71	San Juan, Puerto Rico Metropolitan Bus Authority	225,720 a/
PR	E2009-BUSP-796	152	San Juan, Puerto Rico Metropolitan Bus Authority -- -bus security equipment	677,160 a/
PR	E2009-BUSP-797		Trolley Purchase, Las Marias	190,000
PR	E2009-BUSP-798	58	Yabucoca, Puerto Rico-Trolley Buses	39,501
RI	E2009-BUSP-799	246	Providence, RI Expansion of Elmwood Paratransit Maintenance Facility	1,128,600
RI	E2009-BUSP-800	115	Rhode Island Statewide Bus Fleet	1,354,320
RI	E2009-BUSP-801	604	Rhode Island, RIPTA Elmwood Facility Expansion	1,850,000
RI	E2009-BUSP-802		Senior Transportation	190,000
RI	E2009-BUSP-803		Statewide Bus Replacement	950,000
SC	E2009-BUSP-804	533	Greensville, SC Transit Authority-City of Greenville Multimodal Transportation Center Improvements	274,000
SC	E2009-BUSP-805		North Charleston Regional Intermodal Transportation Center	475,000
SC	E2009-BUSP-806		Santee Wateree Regional Transit Authority Intermodal Transportation Center	950,000
SC	E2009-BUSP-807	619	South Carolina Department of Transportation-Transit Facilities Construction Program	549,000
SC	E2009-BUSP-808	620	South Carolina Department of Transportation-Vehicle Acquisition Program	2,194,000
SD	E2009-BUSP-809	621	South Dakota Department of Transportation-Statewide Buses and Bus Facilities	4,097,000
TN	E2009-BUSP-810		ETHRA Replacement Handicapped Accessible Vehicles	1,425,000
TN	E2009-BUSP-811		Knoxville Transit Center Automated Vehicle Locator System	237,500
TN	E2009-BUSP-812	237	Knoxville, Tennessee-Central Station Transit Center	2,302,344
TN	E2009-BUSP-813	554	Knoxville, TN-Central Station	685,000
TN	E2009-BUSP-814	565	Lipscomb University, TN-Intermodal Parking Garage	411,000
TN	E2009-BUSP-815	579	Metropolitan Transit Authority-Nashville Downtown Transit Transfer Facility	3,291,000
TN	E2009-BUSP-816		MTSU Intermodal Transportation HUB	380,000
TN	E2009-BUSP-817	268	Nashville, TN Construct a parking garage on the campus of Lipscomb University, Nashville	451,440
TN	E2009-BUSP-818	412	Nashville, TN Construct Downtown Nashville Transit Transfer Facility	338,580
TN	E2009-BUSP-819	30	Sevier County, Tennessee-U.S. 441 bus rapid transit	56,430
TN	E2009-BUSP-820	636	Tennessee Department of Transportation-Statewide Tennessee Transit ITS and Bus Replacement Project	3,291,000
TN	E2009-BUSP-821		Townsend Great Smoky Mountain Heritage Bus Station	950,000
TN	E2009-BUSP-822	649	University of Memphis-Pedestrian Bridge	823,000
TN	E2009-BUSP-823		Upper Cumberland Area Rural Transit System (UNCARTS) Bus and Transit Improvement	570,000
TX	E2009-BUSP-824	426	Abilene, TX Vehicle replacement and facility improvements for transit system	90,288
TX	E2009-BUSP-825		Advanced Transit Program/METRO Solutions Bus Expansion	475,000
TX	E2009-BUSP-826		Alternative Fuel Buses, City of Lubbock	712,500
TX	E2009-BUSP-827		Brownsville Urban System City Wide Transit Improvement, Brownsville	237,500
TX	E2009-BUSP-828	480	Brownsville Urban System, TX--City-Wide Transit Improvement Project	1,097,000
TX	E2009-BUSP-829	162	Brownsville, TX Brownsville Urban System City-Wide Transit Improvement Project	564,300
TX	E2009-BUSP-830		Bryan Multi-Modal Transit Terminal and Parking Facility, Brazos County	950,000
TX	E2009-BUSP-831	153	Bryan, TX The District-Bryan Intermodal Transit Terminal and Parking Facility	677,160
TX	E2009-BUSP-832		Bus and Bus Facilities, Denton County Transportation Authority	475,000
TX	E2009-BUSP-833		Capital Metro Bus and Bus Facilities Improvements	475,000
TX	E2009-BUSP-834		Capital Metro Paratransit Vehicle Replacement	2,612,500
TX	E2009-BUSP-835	485	Capital Metropolitan Transportation Authority, TX-Bus Replacements	2,742,000
TX	E2009-BUSP-836	455	Carrollton, Texas Downtown Regional Multimodal Transit Hub	270,000
TX	E2009-BUSP-837	506	City of Round Rock, TX-Downtown Intermodal Transportation Terminal	274,000
TX	E2009-BUSP-838		CNG Bus Replacement, Fort Worth Transportation Authority	1,425,000
TX	E2009-BUSP-839		Concho Valley Multi-Modal Terminal Building	237,500
TX	E2009-BUSP-840	111	Construct West Houston and Fort Bend County, Texas-bus transit corridor	451,440
TX	E2009-BUSP-841	438	Corpus Christi, TX Corpus Regional Transit Authority for maintenance facility improvements	564,300
TX	E2009-BUSP-842	515	Dallas Area Rapid Transit-Bus passenger Facilities	274,000
TX	E2009-BUSP-843	336	Dallas, TX Bus Passenger Facilities	2,889,216
TX	E2009-BUSP-844		DART Bus Procurement, Dallas	950,000
TX	E2009-BUSP-845	196	Design Downtown Carrollton, Texas Regional Multi-Modal Transit Hub Station	451,440
TX	E2009-BUSP-846		El Paso Rural County Transit	712,500
TX	E2009-BUSP-847	290	Galveston, Texas-Intermodal center and parking facility, The Strand	1,015,740

FEDERAL TRANSIT ADMINISTRATION

TABLE 10A

FY 2009 Section 5309 Bus and Bus Facility Allocations

State	Earmark ID	SAFETEA-LU Project No.	Project	Allocation
TX	E2009-BUSP-848		Golden Crescent Bus Replacement in and around Victoria	237,500
TX	E2009-BUSP-849	536	Harris County-West Houston-Fort Bend Bus Transit Corridor: Uptown Westpark Terminal	274,000
TX	E2009-BUSP-850		Hill Country Transit Administration Facility, San Saba	190,000
TX	E2009-BUSP-851		Internal Shuttle System, Texas Medical Center	950,000
TX	E2009-BUSP-852		Laredo Bus Maintenance Facility and Refueling Depot	950,000
TX	E2009-BUSP-853	561	Laredo-North Laredo Transit Hub-Bus Maintenance Facility	823,000
TX	E2009-BUSP-854		Lufkin VA Clinic Shuttle	285,000
TX	E2009-BUSP-855		Metro Intermodal Transit Garage, Texas Medical Center	237,500
TX	E2009-BUSP-856		MTA Advanced Transit Program/Metro Solutions Bus Expansion, Harris County	475,000
TX	E2009-BUSP-857		Paratransit Vehicle Replacement, City of Abilene	456,000
TX	E2009-BUSP-858	24	Roma, TX Bus Facility	118,503
TX	E2009-BUSP-859	610	San Angelo, TX Street Railroad Company-Transit Fleet Replacement	274,000
TX	E2009-BUSP-860	210	San Antonio, TX Improve VIA bus facility and purchase new buses	1,580,040
TX	E2009-BUSP-861		Sun Metro Fuel Facility Improvements, El Paso	712,500
TX	E2009-BUSP-862		Texas Bus Acquisition, City of El Paso	712,500
TX	E2009-BUSP-863		Transit Maintenance Facility Renovations, Galveston	237,500
TX	E2009-BUSP-864	653	VIA Metropolitan Transit Authority, TX-Bus & Bus Facility Improvements	1,372,000
TX	E2009-BUSP-865		VIA Metropolitan Transit Bus Facility Improvements and Bus Fleet Modernization, San Antonio	475,000
TX	E2009-BUSP-866	63	Zapata, Texas Purchase Bus vehicles	70,538
UT	E2009-BUSP-867		Cache Valley Transit District Facility Expansion	475,000
UT	E2009-BUSP-868		Cache Valley Transit District Hybrid Bus Fleet Expansion	475,000
UT	E2009-BUSP-869		Intermodal Facilities, Salt Lake City	4,750,000
UT	E2009-BUSP-870	178	Sandy City, UT Construct transit hub station and TRAX station at 9400 South	451,440
UT	E2009-BUSP-871	651	Utah Statewide Bus and Bus Facilities	8,234,000
VA	E2009-BUSP-872	409	Alexandria, VA Eisenhower Avenue Inter-modal Station improvements, including purchase of buses and construction of bus shelters	564,300
VA	E2009-BUSP-873	232	Alexandria, VA Royal Street Bus Garage Replacement	112,860
VA	E2009-BUSP-874	278	Arlington County, VA Columbia Pike Bus Improvements	790,020
VA	E2009-BUSP-875	142	Arlington County, VA Crystal City-Potomac Yard Busway, including construction of bus shelters	677,160
VA	E2009-BUSP-876	359	Arlington County, VA Pentagon City Multimodal Improvements	451,440
VA	E2009-BUSP-877	157	Bealeton, Virginia-Intermodal Station Depot Refurbishment	62,073
VA	E2009-BUSP-878		Bus and Bus Facilities, Danville	475,000
VA	E2009-BUSP-879		Bus and Bus Facilities, Farmville	712,500
VA	E2009-BUSP-880		Bus and Bus Facilities, Martinsville	712,500
VA	E2009-BUSP-881	492	City of Alexandria, VA-City-Wide Transit Improvements	274,000
VA	E2009-BUSP-882	493	City of Alexandria, VA-Potomac Yard Transit Improvements	274,000
VA	E2009-BUSP-883	494	City of Alexandria, VA-Replace Royal Street Bus Garage	823,000
VA	E2009-BUSP-884	495	City of Alexandria, VA-Valley Pedestrian & Transit	274,000
VA	E2009-BUSP-885	511	Commonwealth of Virginia-Statewide Bus Capital Program	4,114,000
VA	E2009-BUSP-886	15	Fairfax County, VA Richmond Highway (U.S. Route1) Public Transportation Improvements	451,440
VA	E2009-BUSP-887	525	Fairfax County, Virginia-Richmond Highway Initiative	549,000
VA	E2009-BUSP-888	281	Falls Church, VA Falls Church Intermodal Transportation Center	451,440
VA	E2009-BUSP-889	97	Fredericksburg, Virginia-Improve and repair Fredericksburg Station	564,300
VA	E2009-BUSP-890		Georgetown-Rosslyn Connector, Arlington	712,500
VA	E2009-BUSP-891		Greater Richmond Transit Company (GRTC) Bus Replacement	617,500
VA	E2009-BUSP-892	532	Greater Richmond Transit, VA-Bus Operations/Maintenance Facility	1,372,000
VA	E2009-BUSP-893	535	Hampton Roads Transit, VA-Southside Bus Facility	274,000
VA	E2009-BUSP-894	391	Hampton Roads, VA Final design and construction for a Hampton Roads Transit Southside Bus Facility	451,440
VA	E2009-BUSP-895	354	Norfolk, Virginia-Final Design and Construction Southside Bus Facility	395,010
VA	E2009-BUSP-896	68	Northern Neck and Middle Peninsula, Virginia-Bay Transit Multimodal Facilities	733,590
VA	E2009-BUSP-897	602	Potomac & Rappahannock Transportation Commission, VA-Buses for Service Expansion	274,000
VA	E2009-BUSP-898	360	Richmond, VA Design and construction for a bus operations and maintenance facility for Greater Richmond Transit Company	338,580
VA	E2009-BUSP-899	184	Richmond, VA Renovation and construction for Main Street Station	248,292
VA	E2009-BUSP-900	434	Roanoke, VA-Bus restoration in the City of Roanoke	56,430
VA	E2009-BUSP-901	312	Roanoke, Virginia-Improve Virginian Railway Station	56,430
VA	E2009-BUSP-902	305	Roanoke, Virginia-Intermodal Facility	45,144
VA	E2009-BUSP-903	361	Roanoke, Virginia-Roanoke Railway and Link Passenger facility	112,860
VA	E2009-BUSP-904		Southside Bus Facility Replacement in Hampton Roads	1,235,000
VI	E2009-BUSP-905		Virgin Islands Mass Transit/Bus and Bus Facility Improvements Program	475,000
VT	E2009-BUSP-906		Addison County Transit Resources Facilities, Buses, and Equipment	2,850,000
VT	E2009-BUSP-907	486	CCTA, VT, Bus, Facilities and Equipment	800,000
VT	E2009-BUSP-908	633	State of Vermont Buses, Facilities and Equipment	520,000
VT	E2009-BUSP-909		Statewide Buses Facilities and Equipment	475,000
WA	E2009-BUSP-910		Ben Franklin Transit Maintenance Facility Construction	1,757,500
WA	E2009-BUSP-911		Bus Rapid Transit, Aurora Corridor Improvement Project (SR-99) Phase III	475,000
WA	E2009-BUSP-912		Clallam Transit Vehicle Replacement	286,900

FEDERAL TRANSIT ADMINISTRATION

TABLE 10A

FY 2009 Section 5309 Bus and Bus Facility Allocations

State	Earmark ID	SAFETEA-LU Project No.	Project	Allocation
WA	E2009-BUSP-913		Community Transit Bus and Bus Facilities, Everett	237,500
WA	E2009-BUSP-914		Downtown Tacoma Intermodal Center, Tacoma	1,235,000
WA	E2009-BUSP-915		Enumclaw Welcome Center Intermodal Transit Facility	1,425,000
WA	E2009-BUSP-916		Everett Transit Vehicle Replacement	712,500
WA	E2009-BUSP-917		Grant Transit Authority Operations and Maintenance Facility, Moses Lake	475,000
WA	E2009-BUSP-918		Grant Transit Vehicle Replacement	425,600
WA	E2009-BUSP-919	395	Ilwaco, WA Construct park and ride	22,572
WA	E2009-BUSP-920		Intercity Transit Intermodal Facility Project	2,232,500
WA	E2009-BUSP-921	337	Island Transit, WA Operations Base Facilities Project	541,728
WA	E2009-BUSP-922		King County Hybrid Bus Program	237,500
WA	E2009-BUSP-923	193	Mukilteo, WA Multi-Modal Terminal	1,309,176
WA	E2009-BUSP-924	334	North Bend, Washington-Park and Ride	180,576
WA	E2009-BUSP-925	333	Oak Harbor, WA Multimodal Facility	225,720
WA	E2009-BUSP-926	94	Pacific Transit , WA Vehicle Replacement	22,572 a/
WA	E2009-BUSP-927		Pacific Transit Vehicle Replacement	456,000
WA	E2009-BUSP-928		Pierce Transit Peninsula Park and Ride	2,351,250
WA	E2009-BUSP-929		Pullman Transit Vehicle Replacement	1,288,200
WA	E2009-BUSP-930	613	Seattle, WA Multimodal Terminal Redevelopment & Expansion	1,100,000
WA	E2009-BUSP-931	113	Snohomish County, WA Community Transit bus purchases and facility enhancement	677,160
WA	E2009-BUSP-932	151	Thurston County, WA Replace Thurston County Buses	203,148
WA	E2009-BUSP-933		Twin Transit Vehicle Replacement	579,500
WA	E2009-BUSP-934		Valley Transit Vehicle Replacement	368,600
WA	E2009-BUSP-935	654	Washington Southworth Terminal Redevelopment	1,500,000
WA	E2009-BUSP-936	655	Washington, King Street Transportation Center-Intercity Bus Terminal Component	70,000
WA	E2009-BUSP-937		Whatcom Transportation Authority Bus Replacements	1,900,000
WI	E2009-BUSP-938	452	Design, engineering, right-of-way acquisition, and construction State of Wisconsin Transit Intermodal Facilities	1,350,000 a/
WI	E2009-BUSP-939		Milwaukee County Bus Capital, Milwaukee	712,500
WI	E2009-BUSP-940	350	Milwaukee, WI Rehabilitate Intermodal transportation facility at downtown Milwaukee's Amtrak Station, increase parking for bus passengers	1,015,740
WI	E2009-BUSP-941		Oshkosh Bus and Bus Facilities, Winnebago County	269,800
WI	E2009-BUSP-942	100	State of Wisconsin buses and bus facilities	3,690,522
WI	E2009-BUSP-943		Wisconsin Statewide Bus and Bus Facilities	3,800,000
WI	E2009-BUSP-944	663	Wisconsin, Statewide Buses and Bus Facilities	700,000
WV	E2009-BUSP-945	73	West Virginia Construct Beckley Intermodal Gateway pursuant to the eligibility provisions for projects listed under section 3030(d)(3) of P.L.. 105-178.	5,417,280
WV	E2009-BUSP-946	658	West Virginia, Statewide Bus and Bus Facilities	5,000,000
WY	E2009-BUSP-947	665	Wyoming Department of Transportation-Wyoming Statewide Bus and Bus Related Facilities	823,000
			subtotal	$734,564,229
		Ferry Boat Systems Projects		
CA	E2009-BUSP-948		San Francisco Water Transit Authority	2,500,000
MA	E2009-BUSP-949		Massachusetts Bay Transportation Authority Ferry System	2,500,000
ME	E2009-BUSP-950		Maine State Ferry Service, Rockland	650,000
ME	E2009-BUSP-951		Swans Island, Maine Ferry Service	350,000
NJ	E2009-BUSP-952		Camden, New Jersey Ferry System	1,000,000
NY	E2009-BUSP-953		Governor's Island, New York Ferry System	1,000,000
NY	E2009-BUSP-954		Staten Island Ferry	1,000,000
PA	E2009-BUSP-955		Philadelphia Penn's Landing Ferry Terminal	1,000,000
			subtotal	$10,000,000
		Other Projects		
----	E2009-BUSP-956		Fuel Cell Bus Program	13,500,000
PA	E2009-BUSP-957		Bus Testing	3,000,000
			subtotal	$16,500,000
			Amount Unallocated	$114,095,771
			Total FY 2009 Allocations	**$875,160,000**

a/ Project name clarified in the SAFETEA-LU Technical Corrections Act of 2008 (H.R. 1195)

b/ Project amount reduced in the SAFETEA-LU Technical Corrections Act of 2008 (H.R. 1195)

c/ New SAFETEA-LU project and project number added in the SAFETEA-LU Technical Corrections Act of 2008 (H.R. 1195)

d/ SAFETEA-LU project number was authorized without a project name or funding amount in Pub. L. 109-59; Project name and amount added in the SAFETEA-LU Technical Corrections Act of 2008 (H.R. 1195)

e/ Section 197 of the Omnibus Appropriations Act, 2009: Notwithstanding any other provision of law, funds made available in fiscal years 2006 through 2009 for item number 598 in section 3044(a) of Public Law 109-59 that are unobligated or unexpended in a grant shall be made available to OATS, Incorporated for buses and bus-related facilities.

FEDERAL TRANSIT ADMINISTRATION

TABLE 10B

FY 2009 Reprogrammed Section 5309 Bus and Bus Related Facilites Allocations

State	SAFETEA-LU No.	Earmark ID	Project	Unobligated Amount
KS		E2005-BUSP-804	Johnson County, Kansas Bus Rapid Transit Project (I-35 Fixed Guideway Project; E2005-BUSP-161)	291,534 a/
MO	598	E2006-BUSP-1164	OATS, Incorporated, Bus and Bus Facilities (OATS, Incorporated, MO-ITS Information and Billing System and Bus Facilities; E2006-BUSP-593)	1,032,308 b/c/
MO	598	E2007-BUSP-1003	OATS, Incorporated, Bus and Bus Facilities (OATS, Incorporated, MO-ITS Information and Billing System and Bus Facilities; E2007-BUSP-0355)	4,046,000 b/d/
MO	598	E2008-BUSP-1005	OATS, Incorporated, Bus and Bus Facilities (OATS, Incorporated, MO-ITS Information and Billing System and Bus Facilities; E2008-BUSP-0354)	4,397,000 b/e/
		Total Reprogrammed Allocations		**$9,766,842**

a/ Section 166 of the Omnibus Appropriations Act, 2009: Any unexpended funds in Federal Transit Administration grant numbers KS-03-0018 and KS-03-0032 shall be made available, at the request of the State, for a bus rapid transit project and related capital purchases and facility improvements, in Johnson County, Kansas City, KS under the terms and conditions required to carry out section 5309(b)(3) of title 49, United States Code to the extent applicable. (The original earmark (E2005-BUSP-161 was obligated in KS-03-0032. Amount shown is the unliquidated balance that is available to the project.)

b/ Section 197 of the Omnibus Appropriations Act, 2009: Notwithstanding any other provision of law, funds made available in fiscal years 2006 through 2009 for item number 598 in section 3044(a) of Public Law 109-59 that are unobligated or unexpended in a grant shall be made available to OATS, Incorporated for buses and bus-related facilities.

c/ The original earmark (E2006-BUSP-593) was partially obligated in MO-04-0118-02. Amount shown is the unliquidated balance that is available to the project.

d/ The original earmark (E2007-BUSP-0355) was obligated in MO-04-0118-02 and MO-04-0121-00. Amount shown is the unliquidated balance that is available to the project.

e/ The original earmark (E2008-BUSP-0354) was partially obligated in MO-04-0121-00. Amount shown is the unliquidated and unobligated balances that are available to the project.

FEDERAL TRANSIT ADMINISTRATION

TABLE 11

REVISED FY 2009 SECTION 5309 NEW STARTS ALLOCATIONS

STATE	EARMARK ID	PROJECT LOCATION AND DESCRIPTION	ALLOCATION
AK	E2009-NWST-016	Denali Commission	$4,950,000
AK/HI	E2009-NWST-017	Alaska and Hawaii Ferry Projects	14,850,000 d/
AZ	E2009-NWST-001	Central Phoenix/East Valley Light Rail	90,882,000 a/
AZ	E2009-NWST-018	Commuter Rail Study - Phoenix of Tucson	3,465,000
AZ	E2009-NWST-019	Mountain Links BRT, Flagstaff	5,558,058
AZ	E2009-NWST-020	Tucson Modem Streetcar/Light Rail Transit System, Tucson	1,980,000
CA	E2009-NWST-021	AC Transit BRT Corridor	3,960,000
CA	E2009-NWST-022	Livermore-Amador BRT, Livermore	7,910,100
CA	E2009-NWST-002	Metro Gold Line Eastside Extension, Los Angeles	80,784,000 a/
CA	E2009-NWST-023	Metro Rapid Bus System Gap Closure, Los Angeles	329,294
CA	E2009-NWST-024	Mid-City Rapid, San Diego	19,290,150
CA	E2009-NWST-025	Perris Valley Line, Riverside	44,550,000
CA	E2009-NWST-026	San Francisco Muni Third St. Light Rail-Central Subway Project	9,900,000
CA	E2009-NWST-027	South Sacramento Light Rail Extension	6,930,000
CA	E2009-NWST-028	Van Ness BRT Project, San Francisco	396,000
CA	E2009-NWST-029	Wilshire Blvd Bus-Only Lane, Los Angeles	9,758,526
CO	E2009-NWST-030	Mason Corridor BRT, Fort Collins	11,070,180
CO	E2009-NWST-003	Southeast Corridor LRT	1,020,898 a/
CO	E2009-NWST-031	West Corridor LRT	59,400,000
CT	E2009-NWST-032	Stamford Urban Transitway	3,613,500
DC/MD	E2009-NWST-004	Largo Metrorail Extension	34,353,000 a/
FL	E2009-NWST-033	Central Florida Commuter Rail	12,870,000
FL	E2009-NWST-034	Downtown Orlando East-West Circulator System	7,920,000
FL	E2009-NWST-035	JTA BRT System, Jacksonville	1,267,200
FL	E2009-NWST-036	Metrorail Orange Line Extension Project	19,800,000
HI	E2009-NWST-037	Honolulu High Capacity Transit Corridor Project	19,800,000
IL	E2009-NWST-005	CTA Brown Line (Ravenswood)	30,169,660 a/
IL	E2009-NWST-038	CTA Circle Line	5,940,000
IL	E2009-NWST-039	METRA (Southeast Service; Suburban Transit Access Route Line (Star); Union Pacific Northwest Line; and Union Pacific West Line)	23,760,000
IN	E2009-NWST-040	Northern Indiana Commuter Transit District	4,950,000
KS	E2009-NWST-041	BRT- State Avenue Corridor, Wyandotte County	1,485,000
MA	E2009-NWST-042	Commuter Rail Improvement, Fitchburg	29,700,000
MD	E2009-NWST-043	MARC Capacity Improvements	12,870,000
MI	E2009-NWST-044	South Corridor BRT, Kent County	594,000
MN	E2009-NWST-045	Central Corridor Light Rail Transit Project	19,800,000
MN	E2009-NWST-006	Northstar Corridor Rail	70,454,399 a/
MO	E2009-NWST-046	Troost Corridor BRT, Kansas City	123,948
MS	E2009-NWST-047	I-69 HOV/BRT	7,573,500
NC	E2009-NWST-048	Charlotte Rapid Transit Extension	20,295,000
NJ	E2009-NWST-007	Hudson-Bergen MOS-2, Northern	1,092,821 a/
NJ	E2009-NWST-049	Trans-Hudson Midtown Corridor	47,520,000

FEDERAL TRANSIT ADMINISTRATION

TABLE 11

REVISED FY 2009 SECTION 5309 NEW STARTS ALLOCATIONS

STATE	EARMARK ID	PROJECT LOCATION AND DESCRIPTION	ALLOCATION
NY	E2009-NWST-008	Long Island Rail Road East Side Access	207,527,659 a/
NY	E2009-NWST-009	Second Avenue Subway Phase I	274,920,030 a/
OR	E2009-NWST-050	Pioneer Parkway EmX BRT, Springfield	293,040
OR	E2009-NWST-010	South Corridor I-205/Portland Mall LRT	80,784,000 a/
OR	E2009-NWST-051	Streetcar Loop, Portland	44,550,000
PA	E2009-NWST-011	North Shore LRT Connector	664,176 a/
RI	E2009-NWST-052	South County Commuter Rail, Wickford Junction Station	1,332,045
TX	E2009-NWST-012	Dallas Area Rapid Transit Northwest/Southeast Light Rail MOS	87,094,969 a/
TX	E2009-NWST-053	Houston Metropolitan Transit Authority Advanced Transit Program/METRO Solutions-Phase 2	14,850,000
UT	E2009-NWST-054	Mid Jordan Light Rail Extension	19,800,000
UT	E2009-NWST-013	Weber County to Salt Lake City Commuter Rail	80,784,000 a/
VA	E2009-NWST-055	BRT, Potomac Yard-Crystal City, City of Alexandria and Arlington County	990,000
VA	E2009-NWST-056	Dulles Corridor Metrorail	28,809,000
VA	E2009-NWST-057	Improvements to the Rosslyn Metro Station	1,980,000
VA	E2009-NWST-014	Norfolk LRT	53,056,187 a/ b/
VA	E2009-NWST-058	VRE Rolling Stock	4,950,000
WA	E2009-NWST-059	Bellevue-Redmond BRT, King County	10,842,807
WA	E2009-NWST-015	Central Link Initial Segment, Seattle	25,702,441 a/
WA	E2009-NWST-060	Pacific Highway South BRT, King County	278,705
WA	E2009-NWST-061	University Link LRT Extension	99,000,000 c/
--	--	Unallocated	12,207
		TOTAL FY 2009 ALLOCATIONS.....	**$1,791,157,500**

a/ This amount represents the total appropriated in the Omnibus Appropriations Act, 2009 minus one percent for Project Management Oversight. The project received approximately 5/12ths of this total in the December 18, 2008 Federal Register Notice.

b/ Project received $814,244 above the total New Starts share agreed upon in the Full Funding Grant Agreement (FFGA). The additional funds may be used for eligible program activities related to the project but not included in the FFGA.

c/ Section 165 of the Omnibus Appropriations Act, 2009: Notwithstanding any other provision of law, in regard to the Central Link Initial Segment Project, to the extent that Federal funds remain available within the current budget for the project, the Secretary shall, immediately upon the date of enactment of this Act, amend the Full Funding Grant Agreement for said project to allow remaining Federal funds to be used to support completion of the Airport Link extension of said project.

d/ Section 169 of the Omnibus Appropriations Act, 2009: Funds made available for Alaska or Hawaii ferry boats or ferry terminal facilities pursuant to 49 U.S.C. 5309(m)(2)(B) may be used to construct new vessels and facilities, or to improve existing vessels and facilities, including both the passenger and vehicle-related elements of such vessels and facilities, and for reapair facilities: Provided that not more than $4,000,000 of the funds made available pursuant to 49 U.S.C. 5309(m)(2)(B) may be used by the City and County of Honolulu to operate a passenger ferry boat service demonstration project to test the viability of different intra-island ferry boat routes and technologies.

FEDERAL TRANSIT ADMINISTRATION

TABLE 12A

FY 2009 Extended Section 5309 New Starts Allocations

State	Earmark ID	Project	Unobligated Amount
PA	E2004-NWST-041	Philadelphia, Pennsylvania, Schuylkill Valley Metro	$13,778,504 a/
PA	E2005-NWST-043	Philadelphia, Pennsylvania, Schuylkill Valley MetroRail	9,920,000 a/
	Total Extended Allocations		**$23,698,504**

a/ Section 199 of the Omnibus Appropriations Act, 2009: Notwithstanding any other provision of law, section 198 of division K of Public Law 110-161 shall continue in effect during fiscal year 2009.

Division K of Public Law 110-161did not extend funds to the project for FY 2006.

FY 2009 Reprogrammed Section 5309 New Starts Allocations

KS	E1999-NWST-500	Johnson County, Kansas Bus Rapid Transit Project	$45,622 a/b/
KS	E2000-NWST-500	Johnson County, Kansas Bus Rapid Transit Project	981,079 a/c/
KS	E2001-NWST-500	Johnson County, Kansas Bus Rapid Transit Project	990,644 a/d/
KS	E2002-NWST-500	Johnson County, Kansas Bus Rapid Transit Project	546,012 a/e/
	Total Reprogrammed Allocations		**$2,563,357**

a/ Section 166 of the Omnibus Appropriations Act, 2009: Any unexpended funds in Federal Transit Administration grant numbers KS-03-0018 and KS-03-0032 shall be made available, at the request of the State, for a bus rapid transit project and related capital purchases and facility improvements, in Johnson County, Kansas City, KS under the terms and conditions required to carry out section 5309(b)(3) of title 49, United States Code to the extent applicable.

b/ The original FY 1999 earmark in the amount of $992,500 was obligated in KS-03-0018-01. The amount shown is the unliquidated balance that is available to the project.

c/ The original FY 2000 earmark in the amount of $981,079 was obligated in KS-03-0018-01. The amount shown is the unliquidated balance that is available to the project.

d/ The original FY 2001 earmark in the amount of $990,644 was obligated in KS-03-0018-01. The amount shown is the unliquidated balance that is available to the project.

e/ The original FY 2002 earmark in the amount of 1,485,020 was obligated in KS-03-0032-00. The amount shown is the unliquidated balance that is available to the project.

FEDERAL TRANSIT ADMINISTRATION

TABLE 13

REVISED FY 2009 SECTION 5310 SPECIAL NEEDS FOR ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES APPORTIONMENTS

(Apportionment amount is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

STATE	APPORTIONMENT
Alabama	$2,368,767
Alaska	302,453
American Samoa	65,526
Arizona	2,476,379
Arkansas	1,517,610
California	14,536,209
Colorado	1,717,895
Connecticut	1,669,623
Delaware	475,885
District of Columbia	408,243
Florida	9,266,565
Georgia	3,465,642
Guam	174,598
Hawaii	665,421
Idaho	634,057
Illinois	5,359,583
Indiana	2,812,915
Iowa	1,442,185
Kansas	1,291,039
Kentucky	2,182,415
Louisiana	2,172,741
Maine	753,048
Maryland	2,311,137
Massachusetts	3,074,389
Michigan	4,455,554
Minnesota	2,034,927
Mississippi	1,521,995
Missouri	2,685,625
Montana	524,351
N. Mariana Islands	66,926
Nebraska	850,660
Nevada	1,043,699
New Hampshire	637,265
New Jersey	3,915,243
New Mexico	940,995
New York	9,306,946
North Carolina	3,878,229
North Dakota	410,833
Ohio	5,213,282
Oklahoma	1,792,366
Oregon	1,660,186
Pennsylvania	6,157,065
Puerto Rico	2,086,794
Rhode Island	645,192
South Carolina	2,061,482
South Dakota	454,819
Tennessee	2,879,574
Texas	8,619,667
Utah	844,214
Vermont	385,750
Virgin Islands	164,663
Virginia	3,037,891
Washington	2,581,160
West Virginia	1,139,718
Wisconsin	2,355,655
Wyoming	326,695
TOTAL	**$135,823,746**

FEDERAL TRANSIT ADMINISTRATION

TABLE 14

REVISED FY 2009 SECTION 5311 AND SECTION 5340 NONURBANIZED APPORTIONMENTS AND SECTION 5311(b)(3) RURAL TRANSIT ASSISTANCE PROGRAM (RTAP) APPORTIONMENTS

(Apportionment amount is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

(Note: In accordance with language in the SAFETEA-LU conference report apportionments for Section 5311 and Section 5340 were combined to show a single amount. The State's apportionment under the column heading "Section 5311 and 5340 Apportionment" includes Section 5311 and Growing States funds.)

STATE	SECTIONS 5311 AND 5340 APPORTIONMENT	SECTION 5311(b)(3) APPORTIONMENT
Alabama	$13,264,580	$192,636
Alaska	6,049,069	82,789
American Samoa	226,751	12,918
Arizona	9,474,544	127,265
Arkansas	10,115,694	157,326
California	22,690,552	261,199
Colorado	8,339,573	120,431
Connecticut	2,700,208	93,374
Delaware	1,262,004	77,864
Florida	13,597,741	192,961
Georgia	17,158,958	226,784
Guam	612,899	17,885
Hawaii	1,960,676	84,132
Idaho	5,834,995	100,152
Illinois	14,155,252	201,596
Indiana	13,579,167	200,972
Iowa	10,123,523	157,269
Kansas	9,384,834	140,412
Kentucky	12,833,394	191,063
Louisiana	10,201,151	163,474
Maine	5,416,674	113,946
Maryland	4,964,334	115,885
Massachusetts	3,488,496	101,365
Michigan	17,228,433	236,132
Minnesota	12,712,471	177,449
Mississippi	11,527,065	175,259
Missouri	13,829,581	192,568
Montana	7,517,347	99,024
N. Mariana Islands	34,907	10,383
Nebraska	6,546,790	111,154
Nevada	4,898,940	81,398
New Hampshire	3,487,682	99,837
New Jersey	3,234,155	98,645
New Mexico	8,175,433	113,729
New York	17,542,541	241,835
North Carolina	22,112,282	283,428
North Dakota	3,969,909	85,954
Ohio	19,939,254	270,868
Oklahoma	11,304,981	165,188
Oregon	9,767,582	138,614
Pennsylvania	20,187,613	272,305
Puerto Rico	1,403,043	81,906
Rhode Island	578,058	71,122
South Carolina	11,112,804	173,907
South Dakota	4,917,115	93,536
Tennessee	14,153,121	203,773
Texas	33,829,825	373,457
Utah	4,839,298	89,708
Vermont	2,623,707	90,643
Virginia	12,405,609	185,470
Washington	9,553,083	146,002
West Virginia	6,714,642	130,873
Wisconsin	13,451,464	193,414
Wyoming	4,650,306	83,737
TOTAL	**$511,684,110**	**$7,905,016**

FEDERAL TRANSIT ADMINISTRATION

TABLE 16

REVISED FY 2009 SECTION 5316 JOB ACCESS AND REVERSE COMMUTE APPORTIONMENT

(Apportionment amount is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

URBANIZED AREA/STATE	APPORTIONMENT
200,000 or more in Population	$109,861,905
50,000-199,999 in Population	36,620,635
Nonurbanized	36,620,635
National Total	$183,103,175

Amounts Apportioned to Urbanized Areas 200,000 or more in Population:

Aguadilla--Isabela--San Sebastian, PR	$711,515
Akron, OH	333,528
Albany, NY	309,355
Albuquerque, NM	437,326
Allentown--Bethlehem, PA--NJ	290,053
Anchorage, AK	112,534
Ann Arbor, MI	162,504
Antioch, CA	113,570
Asheville, NC	152,860
Atlanta, GA	1,800,110
Atlantic City, NJ	130,165
Augusta-Richmond County, GA--SC	256,631
Austin, TX	544,294
Bakersfield, CA	426,587
Baltimore, MD	1,167,462
Barnstable Town, MA	100,680
Baton Rouge, LA	394,978
Birmingham, AL	477,307
Boise City, ID	130,355
Bonita Springs--Naples, FL	98,268
Boston, MA--NH--RI	1,841,507
Bridgeport--Stamford, CT--NY	349,169
Buffalo, NY	649,554
Canton, OH	151,316
Cape Coral, FL	197,719
Charleston--North Charleston, SC	294,488
Charlotte, NC--SC	372,559
Chattanooga, TN--GA	226,360
Chicago, IL--IN	4,742,079
Cincinnati, OH--KY--IN	776,303
Cleveland, OH	1,042,011
Colorado Springs, CO	227,131
Columbia, SC	256,907
Columbus, GA--AL	199,938
Columbus, OH	653,898
Concord, CA	134,872
Corpus Christi, TX	268,754
Dallas--Fort Worth--Arlington, TX	2,663,915
Davenport, IA--IL	168,752
Dayton, OH	406,826

FEDERAL TRANSIT ADMINISTRATION

TABLE 16

REVISED FY 2009 SECTION 5316 JOB ACCESS AND REVERSE COMMUTE APPORTIONMENT

(Apportionment amount is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

URBANIZED AREA/STATE	APPORTIONMENT
Daytona Beach--Port Orange, FL	183,009
Denton--Lewisville, TX	111,652
Denver--Aurora, CO	936,201
Des Moines, IA	170,788
Detroit, MI	2,258,348
Durham, NC	204,341
El Paso, TX--NM	858,825
Eugene, OR	178,272
Evansville, IN--KY	133,148
Fayetteville, NC	203,839
Flint, MI	277,723
Fort Collins, CO	114,957
Fort Wayne, IN	161,114
Fresno, CA	643,057
Grand Rapids, MI	277,802
Greensboro, NC	155,118
Greenville, SC	207,491
Gulfport--Biloxi, MS	156,443
Harrisburg, PA	158,632
Hartford, CT	421,741
Honolulu, HI	396,817
Houston, TX	2,983,501
Huntsville, AL	122,110
Indianapolis, IN	620,470
Indio--Cathedral City--Palm Springs, CA	224,738
Jackson, MS	252,229
Jacksonville, FL	530,286
Kansas City, MO--KS	697,698
Knoxville, TN	282,077
Lancaster, PA	146,329
Lancaster--Palmdale, CA	219,479
Lansing, MI	202,043
Las Vegas, NV	819,037
Lexington-Fayette, KY	167,651
Lincoln, NE	125,913
Little Rock, AR	259,477
Los Angeles--Long Beach--Santa Ana, CA	10,734,670
Louisville, KY--IN	540,104
Lubbock, TX	191,860
Madison, WI	179,865
McAllen, TX	894,630
Memphis, TN--MS--AR	780,676
Miami, FL	3,751,178
Milwaukee, WI	785,918
Minneapolis--St. Paul, MN	956,788
Mission Viejo, CA	148,457
Mobile, AL	308,797
Modesto, CA	276,733
Nashville-Davidson, TN	446,905
New Haven, CT	268,459

FEDERAL TRANSIT ADMINISTRATION

TABLE 16

REVISED FY 2009 SECTION 5316 JOB ACCESS AND REVERSE COMMUTE APPORTIONMENT

(Apportionment amount is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

URBANIZED AREA/STATE	APPORTIONMENT
New Orleans, LA	1,001,368
New York--Newark, NY--NJ--CT	12,133,630
Ogden--Layton, UT	188,530
Oklahoma City, OK	569,694
Omaha, NE--IA	345,844
Orlando, FL	736,345
Oxnard, CA	249,416
Palm Bay--Melbourne, FL	217,929
Pensacola, FL--AL	238,686
Peoria, IL	159,036
Philadelphia, PA--NJ--DE--MD	2,918,320
Phoenix--Mesa, AZ	1,926,544
Pittsburgh, PA	1,012,117
Port St. Lucie, FL	179,744
Portland, OR--WA	873,741
Poughkeepsie--Newburgh, NY	185,294
Providence, RI--MA	737,656
Provo--Orem, UT	222,069
Raleigh, NC	224,770
Reading, PA	145,454
Reno, NV	181,478
Richmond, VA	435,697
Riverside--San Bernardino, CA	1,374,569
Rochester, NY	405,246
Rockford, IL	149,349
Round Lake Beach--McHenry--Grayslake, IL--WI	61,876
Sacramento, CA	986,039
Salem, OR	274,419
Salt Lake City, UT	433,717
San Antonio, TX	1,153,779
San Diego, CA	1,877,899
San Francisco--Oakland, CA	1,676,115
San Jose, CA	618,752
San Juan, PR	4,256,560
Santa Rosa, CA	140,992
Sarasota--Bradenton, FL	300,494
Savannah, GA	180,341
Scranton, PA	258,447
Seattle, WA	1,289,077
Shreveport, LA	267,882
South Bend, IN--MI	163,524
Spokane, WA--ID	239,526
Springfield, MA--CT	370,057
Springfield, MO	159,009
St. Louis, MO--IL	1,143,875
Stockton, CA	352,775
Syracuse, NY	273,888
Tallahassee, FL	177,708
Tampa--St. Petersburg, FL	1,310,900
Temecula--Murrieta, CA	116,780

FEDERAL TRANSIT ADMINISTRATION

TABLE 16

REVISED FY 2009 SECTION 5316 JOB ACCESS AND REVERSE COMMUTE APPORTIONMENT

(Apportionment amount is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

URBANIZED AREA/STATE	APPORTIONMENT
Thousand Oaks, CA	63,122
Toledo, OH--MI	338,023
Trenton, NJ	132,744
Tucson, AZ	591,641
Tulsa, OK	382,377
Victorville--Hesperia--Apple Valley, CA	175,296
Virginia Beach, VA	827,600
Washington, DC--VA--MD	1,597,743
Wichita, KS	243,817
Winston-Salem, NC	177,236
Worcester, MA--CT	240,348
Youngstown, OH--PA	293,465
TOTAL	$109,861,905

Amounts Apportioned to State Governors for Urbanized Areas 50,000 to 199,999 in Population

Alabama	$1,024,748
Alaska	46,178
Arizona	369,378
Arkansas	658,680
California	3,814,759
Colorado	614,197
Connecticut	374,504
Delaware	63,029
Florida	2,134,777
Georgia	1,169,495
Hawaii	69,227
Idaho	396,355
Illinois	842,081
Indiana	901,293
Iowa	541,835
Kansas	247,850
Kentucky	336,937
Louisiana	1,063,804
Maine	323,517
Maryland	402,326
Massachusetts	343,858
Michigan	1,141,002
Minnesota	309,617
Mississippi	190,892
Missouri	381,710
Montana	292,523
N. Mariana Islands	106,144
Nebraska	19,517
Nevada	50,538
New Hampshire	293,294
New Jersey	187,809
New Mexico	362,626
New York	688,001

FEDERAL TRANSIT ADMINISTRATION

TABLE 16

REVISED FY 2009 SECTION 5316 JOB ACCESS AND REVERSE COMMUTE APPORTIONMENT

(Apportionment amount is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

URBANIZED AREA/STATE	APPORTIONMENT
North Carolina	1,168,581
North Dakota	221,881
Ohio	858,827
Oklahoma	232,582
Oregon	297,147
Pennsylvania	1,125,202
Puerto Rico	3,446,426
South Carolina	657,202
South Dakota	166,111
Tennessee	763,790
Texas	4,108,297
Utah	169,084
Vermont	87,688
Virginia	780,800
Washington	1,016,180
West Virginia	695,952
Wisconsin	931,691
Wyoming	130,693
TOTAL	$36,620,635

Amounts Apportioned to State Governors for Nonurbanized Areas Less than 50,000 in Population

Alabama	$1,225,713
Alaska	119,383
American Samoa	110,148
Arizona	658,996
Arkansas	924,203
California	1,865,405
Colorado	346,626
Connecticut	89,317
Delaware	81,393
Florida	1,057,995
Georgia	1,451,671
Guam	110,297
Hawaii	145,707
Idaho	316,348
Illinois	825,426
Indiana	738,604
Iowa	526,943
Kansas	524,895
Kentucky	1,335,711
Louisiana	1,143,487
Maine	353,256
Maryland	227,905
Massachusetts	142,396
Michigan	982,795
Minnesota	629,020
Mississippi	1,324,873
Missouri	1,077,764

FEDERAL TRANSIT ADMINISTRATION

TABLE 16

REVISED FY 2009 SECTION 5316 JOB ACCESS AND REVERSE COMMUTE APPORTIONMENT

(Apportionment amount is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

URBANIZED AREA/STATE	APPORTIONMENT
Montana	318,965
N. Mariana Islands	62,665
Nebraska	327,271
Nevada	98,180
New Hampshire	153,001
New Jersey	121,610
New Mexico	617,258
New York	1,174,435
North Carolina	1,846,355
North Dakota	168,645
Ohio	1,256,809
Oklahoma	994,489
Oregon	503,506
Pennsylvania	1,334,783
Puerto Rico	474,731
Rhode Island	20,893
South Carolina	1,023,421
South Dakota	253,006
Tennessee	1,193,069
Texas	2,921,744
Utah	179,983
Vermont	162,759
Virgin Islands	110,737
Virginia	858,662
Washington	618,950
West Virginia	723,385
Wisconsin	624,548
Wyoming	140,498
TOTAL	$36,620,635

FEDERAL TRANSIT ADMINISTRATION

TABLE 18

REVISED FY 2009 SECTION 5317 NEW FREEDOM APPORTIONMENTS

(Apportionment amount is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

URBANIZED AREA/STATE	APPORTIONMENT
UZAs 200,000 or more in Population	$60,515,751
UZAs 50,000-199,999 in Population	20,171,917
Nonurbanized	20,171,917
National Total	$100,859,585

Amounts Apportioned to Urbanized Areas 200,000 or more in Population:

Aguadilla--Isabela--San Sebastian, PR	$157,017
Akron, OH	202,559
Albany, NY	194,701
Albuquerque, NM	227,532
Allentown--Bethlehem, PA--NJ	194,270
Anchorage, AK	64,919
Ann Arbor, MI	76,455
Antioch, CA	75,459
Asheville, NC	96,522
Atlanta, GA	1,106,929
Atlantic City, NJ	91,930
Augusta-Richmond County, GA--SC	134,677
Austin, TX	247,587
Bakersfield, CA	163,217
Baltimore, MD	791,235
Barnstable Town, MA	98,279
Baton Rouge, LA	174,720
Birmingham, AL	270,126
Boise City, ID	79,626
Bonita Springs--Naples, FL	91,133
Boston, MA--NH--RI	1,399,144
Bridgeport--Stamford, CT--NY	295,933
Buffalo, NY	376,104
Canton, OH	92,626
Cape Coral, FL	146,069
Charleston--North Charleston, SC	161,653
Charlotte, NC--SC	240,426
Chattanooga, TN--GA	142,525
Chicago, IL--IN	2,841,074
Cincinnati, OH--KY--IN	501,368
Cleveland, OH	643,079
Colorado Springs, CO	135,362
Columbia, SC	144,341
Columbus, GA--AL	99,280
Columbus, OH	357,884
Concord, CA	151,636
Corpus Christi, TX	115,646
Dallas--Fort Worth--Arlington, TX	1,411,870
Davenport, IA--IL	91,787

FEDERAL TRANSIT ADMINISTRATION

TABLE 18

REVISED FY 2009 SECTION 5317 NEW FREEDOM APPORTIONMENTS

(Apportionment amount is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

URBANIZED AREA/STATE	APPORTIONMENT
Dayton, OH	251,681
Daytona Beach--Port Orange, FL	120,337
Denton--Lewisville, TX	64,963
Denver--Aurora, CO	632,787
Des Moines, IA	115,327
Detroit, MI	1,484,246
Durham, NC	89,416
El Paso, TX--NM	252,246
Eugene, OR	78,683
Evansville, IN--KY	85,377
Fayetteville, NC	97,237
Flint, MI	151,018
Fort Collins, CO	53,659
Fort Wayne, IN	94,419
Fresno, CA	227,545
Grand Rapids, MI	167,057
Greensboro, NC	93,958
Greenville, SC	122,365
Gulfport--Biloxi, MS	91,106
Harrisburg, PA	114,828
Hartford, CT	307,497
Honolulu, HI	248,184
Houston, TX	1,317,996
Huntsville, AL	69,708
Indianapolis, IN	429,375
Indio--Cathedral City--Palm Springs, CA	111,291
Jackson, MS	109,906
Jacksonville, FL	340,051
Kansas City, MO--KS	464,308
Knoxville, TN	165,920
Lancaster, PA	105,472
Lancaster--Palmdale, CA	93,834
Lansing, MI	97,519
Las Vegas, NV	531,748
Lexington-Fayette, KY	86,293
Lincoln, NE	64,093
Little Rock, AR	144,476
Los Angeles--Long Beach--Santa Ana, CA	4,506,300
Louisville, KY--IN	336,804
Lubbock, TX	74,107
Madison, WI	85,232
McAllen, TX	203,875
Memphis, TN--MS--AR	381,159
Miami, FL	2,088,998
Milwaukee, WI	441,025
Minneapolis--St. Paul, MN	652,995
Mission Viejo, CA	134,816
Mobile, AL	145,110

FEDERAL TRANSIT ADMINISTRATION

TABLE 18

REVISED FY 2009 SECTION 5317 NEW FREEDOM APPORTIONMENTS

(Apportionment amount is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

URBANIZED AREA/STATE	APPORTIONMENT
Modesto, CA	130,919
Nashville-Davidson, TN	269,527
New Haven, CT	187,406
New Orleans, LA	430,892
New York--Newark, NY--NJ--CT	7,117,056
Ogden--Layton, UT	114,686
Oklahoma City, OK	293,836
Omaha, NE--IA	188,303
Orlando, FL	437,439
Oxnard, CA	127,504
Palm Bay--Melbourne, FL	166,830
Pensacola, FL--AL	129,578
Peoria, IL	86,318
Philadelphia, PA--NJ--DE--MD	1,869,385
Phoenix--Mesa, AZ	1,017,693
Pittsburgh, PA	619,857
Port St. Lucie, FL	127,548
Portland, OR--WA	525,536
Poughkeepsie--Newburgh, NY	113,517
Providence, RI--MA	474,631
Provo--Orem, UT	64,586
Raleigh, NC	135,734
Reading, PA	87,350
Reno, NV	113,788
Richmond, VA	284,315
Riverside--San Bernardino, CA	562,816
Rochester, NY	239,306
Rockford, IL	96,718
Round Lake Beach--McHenry--Grayslake, IL--WI	57,693
Sacramento, CA	526,715
Salem, OR	76,444
Salt Lake City, UT	273,295
San Antonio, TX	522,030
San Diego, CA	901,907
San Francisco--Oakland, CA	1,183,180
San Jose, CA	497,374
San Juan, PR	1,129,643
Santa Rosa, CA	99,725
Sarasota--Bradenton, FL	250,857
Savannah, GA	88,012
Scranton, PA	170,546
Seattle, WA	895,307
Shreveport, LA	111,077
South Bend, IN--MI	101,108
Spokane, WA--ID	127,185
Springfield, MA--CT	237,347
Springfield, MO	76,913
St. Louis, MO--IL	709,423

FEDERAL TRANSIT ADMINISTRATION

TABLE 18

REVISED FY 2009 SECTION 5317 NEW FREEDOM APPORTIONMENTS

(Apportionment amount is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

URBANIZED AREA/STATE	APPORTIONMENT
Stockton, CA	135,323
Syracuse, NY	143,156
Tallahassee, FL	53,245
Tampa--St. Petersburg, FL	934,532
Temecula--Murrieta, CA	73,733
Thousand Oaks, CA	57,239
Toledo, OH--MI	190,968
Trenton, NJ	99,345
Tucson, AZ	278,098
Tulsa, OK	210,867
Victorville--Hesperia--Apple Valley, CA	78,826
Virginia Beach, VA	466,636
Washington, DC--VA--MD	1,147,106
Wichita, KS	147,286
Winston-Salem, NC	104,303
Worcester, MA--CT	166,903
Youngstown, OH--PA	166,283
TOTAL	**$60,515,751**

Amounts Apportioned to State Governors for Urbanized Areas 50,000 to 199,999 in Population

Alabama	$531,740
Alaska	24,891
Arizona	172,302
Arkansas	355,145
California	2,064,991
Colorado	342,462
Connecticut	327,906
Delaware	40,739
Florida	1,548,695
Georgia	560,767
Hawaii	58,058
Idaho	201,787
Illinois	456,794
Indiana	518,477
Iowa	302,066
Kansas	142,360
Kentucky	194,505
Louisiana	546,990
Maine	222,331
Maryland	353,144
Massachusetts	240,287
Michigan	748,151
Minnesota	177,517
Mississippi	86,185
Missouri	210,910
Montana	146,771
N. Mariana Islands	31,619

FEDERAL TRANSIT ADMINISTRATION

TABLE 18

REVISED FY 2009 SECTION 5317 NEW FREEDOM APPORTIONMENTS

(Apportionment amount is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

URBANIZED AREA/STATE	APPORTIONMENT
Nebraska	8,803
Nevada	40,121
New Hampshire	275,628
New Jersey	146,870
New Mexico	156,958
New York	410,348
North Carolina	831,824
North Dakota	126,173
Ohio	569,955
Oklahoma	97,344
Oregon	149,070
Pennsylvania	670,582
Puerto Rico	903,492
South Carolina	460,541
South Dakota	111,088
Tennessee	470,030
Texas	1,773,882
Utah	63,140
Vermont	52,839
Virginia	461,849
Washington	639,542
West Virginia	403,005
Wisconsin	660,734
Wyoming	80,509
TOTAL	**$20,171,917**

Amounts Apportioned to State Governors for Nonurbanized Areas Less than 50,000 in Population

Alabama	$683,756
Alaska	55,481
American Samoa	9,732
Arizona	291,343
Arkansas	492,943
California	848,106
Colorado	191,154
Connecticut	91,365
Delaware	58,794
Florida	658,757
Georgia	778,945
Guam	28,393
Hawaii	80,557
Idaho	132,840
Illinois	519,986
Indiana	570,034
Iowa	338,470
Kansas	294,769
Kentucky	715,188
Louisiana	479,150

FEDERAL TRANSIT ADMINISTRATION

TABLE 18

REVISED FY 2009 SECTION 5317 NEW FREEDOM APPORTIONMENTS

(Apportionment amount is based on funding made available under the Omnibus Appropriations Act, 2009 - P.L. 111-8)

URBANIZED AREA/STATE	APPORTIONMENT
Maine	217,537
Maryland	192,080
Massachusetts	120,932
Michigan	682,493
Minnesota	390,010
Mississippi	580,846
Missouri	565,078
Montana	129,890
N. Mariana Islands	935
Nebraska	170,269
Nevada	70,548
New Hampshire	147,286
New Jersey	92,013
New Mexico	222,063
New York	710,591
North Carolina	1,111,789
North Dakota	78,396
Ohio	818,859
Oklahoma	497,147
Oregon	335,189
Pennsylvania	824,020
Puerto Rico	103,558
Rhode Island	21,532
South Carolina	564,913
South Dakota	103,541
Tennessee	727,798
Texas	1,384,089
Utah	80,907
Vermont	100,909
Virgin Islands	19,619
Virginia	568,936
Washington	339,631
West Virginia	369,528
Wisconsin	441,359
Wyoming	67,863
TOTAL	**$20,171,917**

FEDERAL TRANSIT ADMINISTRATION

TABLE 19A

FY 2009 SECTION 5339 ALTERNATIVES ANALYSIS ALLOCATIONS

State	Earmark ID	Project Location and Description	Allocation
AZ	E2009-ALTA-001	Central Mesa Corridor Alternative Analysis, Mesa	$237,500
AZ	E2009-ALTA-002	I-10 West Corridor Alternative Analysis	475,000
AZ	E2009-ALTA-003	Tempe South Corridor Alternatives Analysis, Tempe	237,500
CA	E2009-ALTA-004	Smart Preliminary Engineering	427,500
CA	E2009-ALTA-005	Telegraph Avenue/International Boulevard/E. 14th Street Bus Rapid Transit Corridor in Alameda County	237,500
FL	E2009-ALTA-006	Downtown Transit Circulator	475,000
FL	E2009-ALTA-007	Sarasota County Bus Rapid Transit Project, Sarasota County	1,009,375
GA	E2009-ALTA-008	Atlanta BeltLine, Atlanta	475,000
GA	E2009-ALTA-009	MARTA I-20 East Transit Corridor	950,000
IL	E2009-ALTA-010	Alternative Analysis Study for the J-Route Bus Rapid Transit (BRT) Project	237,500
IL	E2009-ALTA-011	CTA Red Line Extension	285,000
IL	E2009-ALTA-012	Yellow Line Extension	237,500
IN	E2009-ALTA-013	GYY Alternatives Analysis	237,500
KS	E2009-ALTA-014	Overland Park/Metcalf Transit Study	665,000
MA	E2009-ALTA-015	MBTA/MART Belmont Station Consolidation and Development Study	142,500
MD	E2009-ALTA-016	Aberdeen MARC Rail Storage Yard	475,000
MI	E2009-ALTA-017	City of Detroit Transit Options for Growth Study	475,000
MN	E2009-ALTA-018	Southwest Transitway Project	534,375
MS	E2009-ALTA-019	Coast Transit Alternative Analysis	1,140,000
NC	E2009-ALTA-020	Conceptual Alignment and Phasing Alternatives Study, Charlotte	237,500
NH	E2009-ALTA-021	Lowell-Nashua Manchester Rail Corridor	1,900,000
NJ	E2009-ALTA-022	Final Environmental Impact Statement for Monmouth-Ocean-Middlesex Cnty Passenger Rail Line	534,375
NJ	E2009-ALTA-023	Hudson-Bergen Light Rail Extension Route 440, North Bergen	237,500
NY	E2009-ALTA-024	West of Hudson Regional Transit Access Project	1,900,000
OR	E2009-ALTA-025	West Eugene EmX Extension Environmental Analysis	475,000
PA	E2009-ALTA-026	Northwest New Jersey-Northwest Pennsylvania Passenger Rail Project	950,000
--	-----	Unallocated	9,811,875
		Total FY 2009 Allocations	**$25,000,000**

FY 2009 Reprogrammed Section 5339 Alternatives Analysis Allocations

State	Earmark ID	Project	Unobligated Amount
NC	E2008-ALTA-023	Charlotte Rapid Transit Extension-Northeast Corridor LRT Project	2,695,000
	Total Reprogrammed Allocations		**$2,695,000**

Section 171 of the Omnibus Appropriations Act, 2009: Notwithstanding any other provisions of law, the $2,695,000 appropriated for the Charlotte Rapid Transit Extension - Northeast Corridor Light Rail Project, North Carolina under the Alternatives Analysis Account in division K of the Consolidated Appropriations Act, 2008 (Public Law 110-161) shall be used for the Charlotte Rapid Transit Extension-Northeast Corridor to carry out new fixed guideway or extension to existing fixed guideway activities described in section 5309 of title 49, United States Code.

FEDERAL TRANSIT ADMINISTRATION

Table 20

FY 2009 NATIONAL RESEARCH PROGRAMS ALLOCATIONS

State	Earmark ID	Project	Allocation 1/
Alabama	E2009-NATR-6701	Transportation Hybrid Electric Vehicle and Fuel Cell Research -- University of Alabama	$486,250
Alabama	E2009-NATR-6702	Transportation Infrastructure and Logistics Research - University of Alabama - Huntsville	486,250
Alabama	E2009-NATR-6703	Trauma Care System Research and Development - University of Alabama - Birmingham	486,250
California	E2009-NATR-7101	Center for Transit Oriented Development	1,000,000
California	E2009-NATR-6704	Regional Transit Training Consortium Pilot Program - Southern CA Regional Transit Training Consortium	450,000
Connecticut	E2009-NATR-6705	Advanced Technology Bus Rapid Transit Project -- Southeastern CT Advanced Technology BRT Project	625,000
Connecticut	E2009-NATR-8101	Greater Hartford Integrated Mass Transit Planning Study, Hartford CT	475,000
Connecticut	E2009-NATR-6706	Greater New Haven Transit District Fuel Cell-Powered Bus Research	607,812
District of Columbia	E2009-NATR-6504	CTAA, nationwide joblinks	1,520,000
District of Columbia	E2009-NATR-6501	Project ACTION	3,000,000
Florida	E2009-NATR-6707	National Bus Rapid Transit Institute -- University of South Florida	1,701,875
Kentucky	E2009-NATR-6708	Application of Information Technology to Transportation Logistics and Security -- Northern Kentucky Univers	400,000
Louisiana	E2009-NATR-8601	Capital Area Regional Transportation Plan, LA	285,000
Maryland	E2009-NATR-6709	Transit Career Ladder Training Program	1,000,000
Michigan	E2009-NATR-6720	BuSolutions advanced transit research	1,616,781
Missouri	E2009-NATR-6721	Missouri transportation institute, Rolla	923,875
New Jersey	E2009-NATR-6710	Center for Advanced Transportation Initiatives - Rutgers Center for Advanced Transportation Initiatives	607,812
New Jersey	E2009-NATR-7102	Institute of Technology's Transportation, Economic, and Land Use System -- NJ TELUS	625,000
North Dakota	E2009-NATR-6711	Small Urban and Rural Transit Center -- North Dakota State University	1,167,000
Ohio	E2009-NATR-6712	Intelligent Transportation System Pilot Project -- Ohio State University	452,212
Oregon	E2009-NATR-6713	Portland, Oregon Streetcar Prototype Purchase and Deployment - TriMet	1,000,000
Pennsylvania	E2009-NATR-6722	Project TRANSIT, Philadelphia, PA	570,000
Pennsylvania	E2009-NATR-6714	Regional Public Safety Training Center -- Lehigh-Carbon Community College	500,000
Pennsylvania	E2009-NATR-6715	Transit Security Training Facility -- Chester County Community College	750,000
West Virginia	E2009-NATR-6723	WVU exhaust emission testing initiative	461,937
Wisconsin	E2009-NATR-8501	Wisconsin Supplemental Transportation Rural Assistance Program -- WI DOT	2,000,000
----------	E2009-NATR-6502	Human Services Transportation Coordination	1,600,000
----------	E2009-NATR-6503	National Technical Assistance Center for Senior Transportation (Section 5314(b))	1,000,000
----------	E2009-NATR-6716	Pilot Program for Remote Infrared Audible Signs	500,000
----------	E2009-NATR-7103	Public Transportation Participation Pilot Program	1,000,000
----------	----------	Small Business Innovative Research	254,446
----------	E2009-NATR-6801	Transportation Equity Research Program	1,000,000
	SUBTOTAL ALLOCATION NATIONAL RESEARCH AND TECHNOLOGY PROGRAM		**$28,552,500**
District of Columbia	E2009-NATR-6717	Transit Cooperative Research Program	10,000,000
District of Columbia	E2009-NATR-6718	University Transportation Centers Program	7,000,000
New Jersey	E2009-NATR-6719	National Transit Institute	4,300,000
	TOTAL ALLOCATION NATIONAL RESEARCH PROGRAMS		**$49,852,500**

1/ Allocations include Small Business Innovative Research takedown when applicable.

[FR Doc. E9–9475 Filed 4–24–09; 8:45 am]

Editorial Note: FR document E9–9475 which was originally published at page 19115 in the issue of Monday, April 27, 2009 is being republished in its entirety in the issue of Thursday, April 30, 2009 because of omitted graphic material.

[FR Doc. R9–9475 Filed 4–29–09; 8:45 am]

BILLING CODE 4910–57–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Gatlinburg/Pigeon Forge Airport, Sevierville, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for Public Comment.

SUMMARY: The Federal Aviation Administration is requesting public comment on the release of land at the Gatlinburg/Pigeon Forge Airport in the city of Sevierville, Tennessee. This property, approximately .5 acres, will change to a non-aeronautical use. This action is taken under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

DATES: Comments must be received on or before *June 1, 2009*.

ADDRESSES: Documents are available for review at the Tennessee Department of Transportation, Division of Aeronautics, 424 Knapp Blvd., Bldg. 4219, Nashville, TN 37217 and the FAA Airports District Office, 2862 Business Park Drive, Building G, Memphis, TN 38118. Written comments on the Sponsor's request must be delivered or mailed to: Mr. Phillip J. Braden, Manager, Memphis Airports District Office, 2862 Business Park Drive, Building G, Memphis, TN 38118.

In addition, a copy of any comments submitted to the FAA must be mailed or delivered to Mr. Bob Woods, Director, TDOT, Division of Aeronautics, P.O. Box 17326, Nashville, TN 37217.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Thompson, Program Manager, Federal Aviation Administration, Memphis Airports District Office, 2862 Business Park Drive, Building G, Memphis, TN 38118. The application may be reviewed in person at this same location, by appointment.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the request to release property at the Gatlinburg/Pigeon Forge Airport, Sevierville, TN. Under the provisions of AIR 21 (49 U.S.C. 47107(h)(2)).

On April 08, 2009, the FAA determined that the request to release property at Gatlinburg/Pigeon Forge Airport submitted by TDOT, Division of Aeronautics, meets the procedural requirements of the Federal Aviation Administration. The FAA may approve the request, in whole or in part, no later than *June 1, 2009*.

The following is a brief overview of the request:

The County of Sevier, owner of the Gatlinburg/Pigeon Forge Airport, are proposing the release of approximately .5 acres of airport property so the property can be used to accommodate the construction of a new Fire Department building.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon appointment and request, inspect the request, notice and other documents germane to the request in person at the Tennessee Department of Transportation, Division of Aeronautics.

Issued in Memphis, TN, on April 23, 2009.

Tommy L Dupree,

Acting Manager, Memphis Airports District Office, Southern Region.

[FR Doc. E9–9985 Filed 4–29–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Cincinnati/Northern Kentucky International Airport, Hebron, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comment.

SUMMARY: The Federal Aviation Administration is requesting public comment on the release of land at the Cincinnati/Northern Kentucky International Airport in the city of Hebron, Kentucky. This property, approximately 1.99 acres, will change to a non-aeronautical use. This action is taken under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

DATES: Comments must be received on or before June 1, 2009.

ADDRESSES: Documents are available for review at the Cincinnati/Northern Kentucky International Airport, 2939 Terminal Drive, 2nd Floor Administration, Hebron, KY 41048 and the FAA Airports District Office, 2862 Business Park Drive, Building G, Memphis, TN 38118. Written comments on the Sponsor's request must be delivered or mailed to: Mr. Phillip J. Braden, Manager, Memphis Airports District Office, 2862 Business Park Drive, Building G, Memphis, TN 38118.

In addition, a copy of any comments submitted to the FAA must be mailed or delivered to Ms. Barbara Schempf, Government Affairs/Noise Abatement Officer, P.O. Box 752000, Cincinnati, OH 45275.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Thompson, Program Manager, Federal Aviation Administration, Memphis Airports District Office, 2862 Business Park Drive, Building G, Memphis, TN 38118. The application may be reviewed in person at this same location, by appointment.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the request to release property at the Cincinnati/Northern Kentucky International Airport, Hebron, KY. Under the provisions of AIR 21 (49 U.S.C. 47107(h)(2)).

On April 08, 2009, the FAA determined that the request to release property at Cincinnati/Northern Kentucky International Airport meets the procedural requirements of the Federal Aviation Administration. The FAA may approve the request, in whole or in part, no later than June 1, 2009.

The following is a brief overview of the request:

The Cincinnati/Northern Kentucky International Airport is proposing the release of approximately 1.99 acres of airport property so the property can be used to accommodate the construction of the new Turfway Road Relocation Project.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon appointment and request, inspect the request, notice and other documents germane to the request in person at the Tennessee Department of Transportation, Division of Aeronautics.

Issued in Memphis, TN, on April 23, 2009.

Tommy L. Dupree,

Acting Manager, Memphis Airports District Office, Southern Region.

[FR Doc. E9–9967 Filed 4–29–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review; Westfield-Barnes Airport, Westfield, MA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its

determination that the noise exposure map for Westfield-Barnes Airport, as submitted by the City of Westfield under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR Part 150, is in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for Westfield-Barnes Airport under Part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before October 19, 2009.

DATES: *Effective Date:* The effective date of the FAA's determination on the noise exposure map and of the start of its review of the associated noise compatibility program is April 22, 2009. The public comment period ends on June 21, 2009.

FOR FURTHER INFORMATION CONTACT: Richard Doucette, Federal Aviation Administration, New England Region, Airports Division, ANE–600, 12 New England Executive Park, Burlington MA 01803.

Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure map submitted for Westfield-Barnes Airport is in compliance with applicable requirements of Part 150, effective April 22, 2009. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before October 19, 2009. This notice also announces the availability of this program for public review and comment.

Under Section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as ''the Act''), an airport operator may submit to the FAA a noise exposure map which meets applicable regulations and which depicts non-compatible land uses as of the date of submission of such map, a description of projected aircraft operations, and the ways in which such operations will affect such map. The Act requires such map to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport. An airport operator who has submitted a noise exposure map that is found by FAA to be in compliance with the requirements of Federal Aviation Regulation (FAR) Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken, or proposes, for the introduction of additional non-compatible uses.

The City of Westfield submitted to the FAA, on April 22, 2009, a noise exposure map, descriptions, and other documentation that were produced during the Airport Noise Compatibility Planning (Part 150) study at Westfield-Barnes Airport from November 2006 to April 2009. It was requested that the FAA review this material as the noise exposure map, as described in Section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under Section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the City of Westfield. The specific maps under consideration were:

Part 150 Noise Compatibility Study Update, Westfield-Barnes Airport.

Figure 1. Exisiting (2009) Noise Exposure Map.

Figure 2. Future (2014) Noise Exposure Map.

The FAA has determined that the maps for Westfield-Barnes Airport are in compliance with applicable requirements. This determination is effective on April 22, 2009.

FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program. If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under Section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure map to resolve questions concerning, for example, which properties should be covered by the provisions of Section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of a noise exposure map. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted the map, or with those public agencies and planning agencies with which consultation is required under Section 103 of the Act. The FAA has relied on the certification by the airport operator, under Section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Westfield-Barnes Airport, also effective on April 22, 2009. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before October 19, 2009. The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, Section 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing non-compatible land uses and preventing the introduction of additional non-compatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure map, the FAA's evaluation of the map, and the proposed noise compatibility program are available for examination at the following locations:

Westfield-Barnes Airport, 110 Airport Road, Westfield, Massachusetts 01085.

Federal Aviation Administration, New England Region, Airports Division, ANE–600, 16 New England Executive Park, Burlington, Massachusetts 01803.

Questions may be directed to the individual named above under the heading: **FOR FURTHER INFORMATION CONTACT**.

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

LaVerne F. Reid,

Manager, Airports Division.

[FR Doc. E9–9980 Filed 4–29–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration, DOT

Noise Exposure Map Notice and Receipt of Noise Compatibility Program and Request for Review for Van Nuys Airport, Van Nuys, CA

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the City of Los Angeles for Van Nuys Airport under the provisions of 49 U.S.C. 47501 *et seq.* (Aviation Safety and Noise Abatement Act) and 14 CFR Part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for Van Nuys Airport under Part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before October 16, 2009.

DATES: *Effective Date:* The effective date of the FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is April 20, 2009. The public comment period ends June 18, 2009.

FOR FURTHER INFORMATION CONTACT: Victor Globa, Environmental Protection Specialist, Federal Aviation Administration, Los Angeles Airports District Office, Mailing Address: P.O. Box 92007, Los Angeles, CA 90009–2007. Street Address: 15000 Aviation Boulevard, Hawthorne, California 90261. Telephone 310/725–3637. Documents reflecting this FAA action may be reviewed at the same location. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Van Nuys Airport are in compliance with applicable requirements of Part 150, effective April 20, 2009. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before October 16, 2009. This notice also announces the availability of this program for public review and comment.

Under 49 U.S.C., section 47503 (the Aviation Safety and Noise Abatement Act, hereinafter referred to as ''the Act''), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes to take to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The City of Los Angeles submitted to the FAA on December 5, 2008, noise exposure maps, descriptions and other documentation that were produced during the Van Nuys Airport Part 150 Study December 1, 1988 to December 5, 2008. It was requested that the FAA review this material as the noise exposure maps, as described in section 47503 of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 47504 of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the City of Los Angeles. The specific documentation determined to constitute the noise exposure maps includes: Exhibit #1 ''Official Noise Exposure Map Existing Conditions—2001'' and Exhibit #3 ''Official Noise Exposure Map Future Conditions—2006 With Mitigation Measures.'' The Noise Exposure Maps contain current and forecast information including the depiction of the airport and its boundaries, the runway configurations, land uses such as residential, commercial, industrial, community facilities, libraries, schools, churches, open space, hospitals, landmarks, and those areas within the Community Noise Equivalent Level (CNEL) 65, 70 and 75 noise contours. Estimates for the number of people within these contours for the year 2001 are shown in Exhibit 1. Estimates of the future residential population within the 2006 noise contours are shown in Exhibit 3. Flight tracks for the existing and the five-year forecast Noise Exposure Maps are found in Exhibits 4, 5, 6, 7, 8, 9 and 10. The type and frequency of aircraft operations (including nighttime operations) are found in Table 4. The FAA has determined that these maps for Van Nuys Airport are in compliance with applicable requirements. This determination is effective on April 20, 2009. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or constitute a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 47503 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 47506 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 47503 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Van Nuys Airport, also effective on April 20, 2009. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before October 16, 2009.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, section 150.33. The primary considerations in the evaluation process are whether the

proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing non-compatible land uses and preventing the introduction of additional non-compatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, National Headquarters, Planning and Environmental Division, APP–400, 800 Independence Avenue, SW., Washington, DC 20591.

Federal Aviation Administration, Western-Pacific Region Office, Airports Division, Room 3012, 15000 Aviation Boulevard, Hawthorne, California 90261.

Federal Aviation Administration, LAX Airports District Office, 15000 Aviation Boulevard, Room 3000, Hawthorne, California 90261.

Roger Johnson, Deputy Executive Director, Los Angeles World Airports, 1 World Way, Los Angeles, CA 90045–5803.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT**.

Issued in Hawthorne, California, on April 20, 2009.

Mia Paredes Ratcliff,

Acting Manager, Airports Division, Western-Pacific Region, AWP–600.

[FR Doc. E9–9973 Filed 4–29–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2003–33

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

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 take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2003–33, Section 9100 Relief for 338 Elections.

DATES: Written comments should be received on or before June 29, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to R. Joseph Durbala at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3634, or through the Internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Section 9100 Relief for 338 Elections.

OMB Number: 1545–1820.

Revenue Procedure Number: Revenue Procedure 2003–33.

Abstract: Revenue Procedure 2003–33 provides qualifying taxpayers with an extension of time pursuant to § 301.9100–3 of the Procedure and Administration Regulations to file an election described in § 338(a) or § 338(h)(10) of the Internal Revenue Code to treat the purchase of the stock of a corporation as an asset acquisition.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individuals or households.

Estimated Number of Respondents: 60.

Estimated Average Time per Respondent: 5 hours.

Estimated Total Annual Reporting Burden: 300.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 14, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–9887 Filed 4–29–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 911

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

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 take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 911, Application for Taxpayer Assistance Order (ATAO).

DATES: Written comments should be received on or before June 29, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions

should be directed to R. Joseph Durbala at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3634, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application for Taxpayer Assistance Order (ATAO).

OMB Number: 1545–1504.

Form Number: 911.

Abstract: This form is used by taxpayers to apply for relief from a significant hardship which may have already occurred or is about to occur if the IRS takes or fails to take certain actions. This form is submitted to the IRS Taxpayer Advocate Office in the district where the taxpayer lives.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, farms and state, local or tribal governments.

Estimated Number of Respondents: 93,000.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 46,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 14, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–9886 Filed 4–29–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8906

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

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 take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8906, Distilled Spirits Credit.

DATES: Written comments should be received on or before June 29, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Qualified Railroad Track Maintenance Credit.

OMB Number: 1545–1982.

Form Number: Form 8906.

Abstract: Form 8906, Distilled Spirits Credit, was developed to carry out the provisions of IRC section 5011(a). This section allows eligible wholesalers and persons subject to IRC section 5055 an income tax credit for the average cost of carrying excise tax on bottled distilled spirits. The new form provides a means for the eligible taxpayer to compute the amount of credit.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations, Farms.

Estimated Number of Respondents: 300.

Estimated Time per Respondent: 1 hour 52 minutes.

Estimated Total Annual Burden Hours: 558.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 14, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–9885 Filed 4–29–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[CO–30–92]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

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 take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, CO–30–92 (TD 8560), Consolidated Returns—Stock Basis and Excess Loss Accounts, earnings and Profits, Absorption of Deductions and Losses, Joining and Leaving Consolidated Groups, Worthless Stock Loss, Nonapplicability of Section 357(c), (§§ 1.1502–31, 1.1502–32, 1.1502–33, 1.1502–76).

DATES: Written comments should be received on or before June 29, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to R. Joseph Durbala, 202–622–3634, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Consolidated Returns—Stock Basis and Excess Loss Accounts, Earnings and Profits, Absorption of Deductions and Losses, Joining and Leaving Consolidated Groups, Worthless Stock Loss, Nonapplicability of Section 357(c).

OMB Number: 1545–1344.

Regulation Project Number: CO–30–92 (final).

Abstract: These regulations amend the consolidated return investment adjustment system, including the rules for earnings and profits and excess loss accounts. In addition, the regulations provide special rules for allocating consolidated income tax liability among members and modify the method for allocating income when a corporation enters or leaves a consolidated group.

Current Actions: There is no change to the total burden of these final regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 52,049.

Estimated Time per Respondent: 22 minutes.

Estimated Total Annual Burden Hours: 18,600.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 14, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–9892 Filed 4–29–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 13751

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

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 take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 13751, Waiver of Right to Consistent Agreement of Partnership Items and Partnership-Level Determinations as to Penalties, Additions to Tax, and Additional Amounts.

DATES: Written comments should be received on or before June 29, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3634, or through the Internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Waiver of Right to Consistent Agreement of Partnership Items and Partnership-Level Determinations as to Penalties, Additions to Tax, and Additional Amounts.

OMB Number: 1545–1969.

Form Number: 13751.

Abstract: The information requested on Form 13751 (as required under Announcement 2005–80) will be used to determine the eligibility for participation in the settlement initiative of taxpayers related through TEFRA partnerships to ineligible applicants. Such determinations will involve partnership items and partnership-level determinations, as well as the calculation of tax liabilities resolved under this initiative, including penalties and interest.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, Business or other for-profit organizations, not-for-profit institutions.

Estimated Number of Respondents: 100.

Estimated Time per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 100.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 14, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–9895 Filed 4–29–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Volunteer Income Tax Assistance Issue Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Volunteer Income Tax Issue Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, June 9, 2009.

FOR FURTHER INFORMATION CONTACT: Marisa Knispel at 1–888–912–1227 or 718–488–3557.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Volunteer Income Tax Issue Committee will be held Tuesday, June 9, 2009, at 2 p.m. Eastern Time via telephone conference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Marisa Knispel. For more information please contact Ms. Knispel at 1–888–912–1227 or 718–488–3557, or write TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201, or contact us at the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: April 22, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–9889 Filed 4–29–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, June 18, 2009, Friday, June 19, 2009 and Saturday, June 20, 2009.

FOR FURTHER INFORMATION CONTACT: Ellen Smiley at 1–888–912–1227 or 414–231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Committee will be held Thursday June 18, 2009, from 1 p.m. to 5 p.m., Friday, June 19, 2009 from 8 a.m. to 5 p.m., and Saturday, June 20, 2009 from 8 a.m. to 12 p.m. Mountain Time in Denver, CO. The public is invited to make oral comments or submit written statements for consideration. Notification of intent to participate must be made with Ellen Smiley. For more information please contact Ms. Smiley at 1–888–912–1227 or 414–231–2360, or write TAP Office Stop 1006MIL, 211 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: April 22, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–9890 Filed 4–29–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 1 Taxpayer Advocacy Panel (Including the States of New York, Connecticut, Massachusetts, Rhode Island, New Hampshire, Vermont and Maine)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Area 1 Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Friday, June 5, 2009 and Saturday, June 6, 2009.

FOR FURTHER INFORMATION CONTACT: Audrey Y. Jenkins at 1–888–912–1227 or 718–488–2085.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 1 Taxpayer Advocacy Panel will be held Friday, June 5, 2009 from 8 a.m. to 4:30 p.m. and Saturday, June 6, 2009 from 8 a.m. to 12 p.m. Eastern Time in New York City, NY. The public is invited to

make oral comments or submit written statements for consideration. Notification of intent to participate must be made with Audrey Y. Jenkins. For more information please contact Ms. Jenkins at 1–888–912–1227 or 718–488–2085, or write TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201, or contact us at the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: April 22, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–9883 Filed 4–29–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be Wednesday, June 10, 2009.

FOR FURTHER INFORMATION CONTACT: Audrey Y. Jenkins at 1–888–912–1227 or 718–488–2085.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee will be held Wednesday, June 10, 2009, at 1 p.m. Eastern Time via telephone conference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Audrey Y. Jenkins. For more information please contact Ms. Jenkins at 1–888–912–1227 or 718–488–2085, or write TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201, or contact us at the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: April 22, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–9882 Filed 4–29–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Small Business/Self Employed Issue Committee

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Small Business/Self Employed Issue Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, June 25, 2009, Friday, June 26, 2009, and Saturday, June 27, 2009.

FOR FURTHER INFORMATION CONTACT: Janice Spinks at 1–888–912–1227 or 206–220–6098.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Small Business/Self Employed Issue Committee will be held Thursday, June 25, 2009 from 8 a.m. to 5 p.m., Friday, June 26, 2009 from 8 a.m. to 5 p.m. and Saturday, June 27, 2009 from 8 a.m. to 12 p.m. Mountain Time in Denver, CO. The public is invited to make oral comments or submit written statements for consideration. Notification of intent to participate must be made with Janice Spinks. For more information please contact Ms. Spinks at 1–888–912–1227 or 206–220–6098, or write TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174 or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: April 22, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–9878 Filed 4–29–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Multi-Lingual Initiatives Issue Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Multi-Lingual Initiatives Issue Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, June 11, 2009 and Friday, June 12, 2009.

FOR FURTHER INFORMATION CONTACT: Marisa Knispel at 1–888–912–1227 or 718–488–3557.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Multi-Lingual Initiatives Issue Committee will be held Thursday, June 11, 2009 from 8:30 a.m. to 5 p.m. and Friday, June 12, 2009 from 8 a.m. to 12 p.m. Central Time in Dallas, TX. The public is invited to make oral comments or submit written statements for consideration. Notification of intent to participate must be made with Marisa Knispel. For more information please contact Ms. Knispel at 1–888–912–1227 or 718–488–3557, or write TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201, or contact us at the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: April 22, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–9877 Filed 4–29–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Joint Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Joint Committee will be conducted. The

Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, June 24, 2009.

FOR FURTHER INFORMATION CONTACT: Susan Gilbert at 1–888–912–1227.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Joint Committee will be held Wednesday, June 24, 2009, at 3 p.m. Eastern Time via telephone conference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Susan Gilbert. For more information please contact Ms. Gilbert at 1–888–912–1227 or write TAP Office, 1111 Constitution Ave., NW., Room 1314, Washington, DC 20224 or contact us at the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: April 22, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–9875 Filed 4–29–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Issue Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Issue Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Friday, June 19, 2009 and Saturday, June 20, 2009.

FOR FURTHER INFORMATION CONTACT: Marianne Ayala at 1–888–912–1227 or 954–423–7978.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Issue Committee will be held Friday, June 19, 2009 from 8 a.m. to 5 p.m. and Saturday, June 20, 2009 from 8 a.m. to 3 p.m. Central Time in St. Louis, MO. The public is invited to make oral comments or submit written statements for consideration. Notification of intent to participate must be made with Marianne Ayala. For more information please contact Ms. Ayala at 1–888–912–1227 or 954–423–7978, or write TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: April 22, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–9874 Filed 4–29–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of Taxpayer Advocacy Panel Notice Improvement Issue Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Notice Improvement Issue Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, June 11, 2009.

FOR FURTHER INFORMATION CONTACT: Sallie Chavez at 1–888–912–1227, or 954–423–7979.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Notice Improvement Issue Committee will be held Thursday, June 11, 2009, at 2 p.m. Eastern Time via telephone conference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Sallie Chavez. For more information please contact Ms. Chavez at 1–888–912–1227 or 954–423–7979, or write TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: April 22, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–9873 Filed 4–29–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 3 Taxpayer Advocacy Panel (Including the States of Florida, Georgia, Alabama, Mississippi, Louisiana, Arkansas, and the Territory of Puerto Rico)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Area 3 Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, June 4, 2009 and Friday, June 5, 2009.

FOR FURTHER INFORMATION CONTACT: Sallie Chavez at 1–888–912–1227 or 954–423–7979.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 3 Taxpayer Advocacy Panel will be held Thursday, June 4, 2009, 8 a.m. to 5 p.m. and Friday, June 5, 2009, 8 a.m. to 3 p.m. Eastern Time in Atlanta, GA. The public is invited to make oral comments or submit written statements for consideration. Notification of intent to participate must be made with Sallie Chavez. For more information please contact Ms. Chavez at 1–888–912–1227 or 954–423–7979, or write TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: April 22, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–9893 Filed 4–29–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 2 Taxpayer Advocacy Panel (Including the States of Delaware, North Carolina, South Carolina, New Jersey, Maryland, Pennsylvania, Virginia, West Virginia and the District of Columbia)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Area 2 Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, June 17, 2009.

FOR FURTHER INFORMATION CONTACT: Marianne Ayala at 1–888–912–1227 or 954–423–7978.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 2 Taxpayer Advocacy Panel will be held Wednesday, June 17, 2009, at 2:30 p.m. Eastern Time via telephone conference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Marianne Ayala. For more information please contact Mrs. Ayala at 1–888–912–1227 or 954–423–7978, or write TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: April 22, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–9894 Filed 4–29–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 6 Taxpayer Advocacy Panel (Including the States of Arizona, Colorado, Idaho, Montana, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Area 6 Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, June 2, 2009.

FOR FURTHER INFORMATION CONTACT: Dave Coffman at 1–888–912–1227 or 206–220–6095.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 6 Taxpayer Advocacy Panel will be held Tuesday, June 2, 2009, at 1 p.m. Pacific Time via telephone conference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Dave Coffman. For more information please contact Mr. Coffman at 1–888–912–1227 or 206–220–6095, or write TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174 or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: April 22, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–9896 Filed 4–29–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 5 Taxpayer Advocacy Panel (Including the States of Iowa, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, and Texas)

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Area 5 Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, June 9, 2009.

FOR FURTHER INFORMATION CONTACT: Patricia Robb at 1–888–912–1227 or 414–231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Area 5 Taxpayer Advocacy Panel will be held Tuesday, June 9, 2009, at 9:30 a.m. Central Time via telephone conference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Patricia Robb. For more information please contact Ms. Robb at 1–888–912–1227 or 414–231–2360, or write TAP Office Stop 1006MIL, 211 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: April 22, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–9897 Filed 4–29–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 7 Taxpayer Advocacy Panel (Including the States of Alaska, California, Hawaii, and Nevada)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Area 7 Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, June 4, 2009, Friday, June 5, 2009, and Saturday, June 6, 2009.

FOR FURTHER INFORMATION CONTACT: Janice Spinks at 1–888–912–1227 or 206–220–6098.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 7 Taxpayer Advocacy Panel will be held Thursday, June 4, 2009 from 1 p.m. to 4:30 p.m., Friday, June 5, 2009 from 8:30 a.m. to 4:30 p.m., and Saturday, June 6, 2009 from 8:30 a.m. to 11:30 a.m. Pacific Time in San Francisco, CA. The public is invited to make oral comments or submit written statements for consideration. Notification of intent to participate must be made with Janice

Spinks. For more information please contact Ms. Spinks at 1–888–912–1227 or 206–220–6098, or write TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174 or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: April 22, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–9898 Filed 4–29–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 6039G

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice is provided in accordance with IRC section 6039G, as amended, by the Health Insurance Portability and Accountability Act (HIPPA) of 1996. This listing contains the name of each individual losing their United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary received information during the quarter ending March 31, 2009.

Last name	First name	Middle name/ initials
Hamilton	Elizabeth	
Hamilton	Marcus	M.
Hamilton	Laura	A.
Wu	Ingrid Chunyu	Chynyuan
Ojjeh	Sultan	Mansour.
Beigbeder	Jean	Michel
Hamblin-True	Kathleen	Theresa
Rochlitz	Joseph	S.
Arbib	Tamara	Sara
Recordati	Lavinia	Eugenia Cristina
Gowdey	David	Russell
Vallarino	Rosita	Arias
Rochlitz	Imre	
Rochlitz	Irene	
Man	Hau	Shing
Conyers	Edith	Gibbons
Wine	Andrea	Marcia
Miller	Ronald	Frederick
Lack	Carol	Ivonne
Mahdavi	Vijak	
Ng	Park	Sze-Park
Marshall	Linda	Susan
Faermark	Daniel	
Wachters	Johannes	Judocus
Schmalz	David	Harrison
Vischer	Johann	Jakob
Toalni	Rohet	N.
Merendoni	Angela	Maria
Ip	Christopher	Shis-Ming
Wong	Benjamin	Wai-Bun
Baker	David	Allen
Baker	Shannon	
Lundin	Virginia	H.
Leung	Bernice	Wing-Yu
Randall	Jonathan	Charles
Chang	Walter	
Chow	George	
Au	Eric	Wai Pong
Peters	Tom	F.
Wong	Vitus	Chun Hung
Lemos	Michaela	
Ohta	Hiroyuki	
Kennedy	Rachelle	Beth Kristen
Kennedy	Nigel	James
Li	Lian	Jie
Schumer	Andrew	Robin
Tan	Stephen	
Tsang	Stephen	Hoi Pong
Saur-Roberts	Diane	Evelyne Caroline
Steiner	Robert	Marc
Lambert	Constantina	Marie
Lambert	Phillippa	Alice Kingsbury
Dare	Elizabeth	Hodson
Wardman	George	S.
Collins	Michael	W.
Lesser	James	Alexander
Viana	William	Sheehan Barbosa
Abend	Tristan	Maximilian
Tilmant	Gregory	Pierre
De Coquet	Mary	L. Rozsa
Stoeher	Bettina	
Sturtevant	Peter	Albert
Macneil	Ian	R.
Zamuner	Robert	F.
Farkas	Edward	Joel
Helbronner	Elizabeth	Boysen
Gardner	John	R.

Dated: April 15, 2009.

Angie Kaminski,

Manager, Team 103, Examinations Operations, Philadelphia Compliance Services.

[FR Doc. E9–10001 Filed 4–29–09; 8:45 am]

BILLING CODE 4830–01–P

TENNESSEE VALLEY AUTHORITY

No FEAR Act Notice

AGENCY: Tennessee Valley Authority (TVA).

ACTION: No FEAR Act Notice.

SUMMARY: 5 CFR part 724.202 requires that each Federal agency provide notice to its employees, former employees, and applicants for employment about the rights and remedies available under the Antidiscrimination Laws and Whistleblower Protection Laws applicable to them within 60 calendar days after September 18, 2006, and annually thereafter. Each agency must publish the initial notice in the **Federal Register**.

No FEAR Act Notice

On May 15, 2002, Congress enacted the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002, which is now known as the No FEAR Act. One purpose of the Act is to require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws. Public Law 107–174, Summary. In support of this purpose, Congress found that ''agencies cannot be run effectively if those agencies practice or tolerate discrimination.'' Public Law 107–174, Title I, General Provisions, section 101(1).

The Act also requires this agency to provide this notice to Federal employees, former Federal employees and applicants for Federal employment to inform you of the rights and protections available to you under Federal antidiscrimination and whistleblower protection laws.

Antidiscrimination Laws

A Federal agency cannot discriminate against an employee or applicant with respect to the terms, conditions or privileges of employment on the basis of race, color, religion, sex, national origin, age, or disability. Discrimination on these bases is prohibited by one or more of the following statutes: 5 U.S.C. 2302(b)(1), 29 U.S.C. 206(d), 29 U.S.C. 631, 29 U.S.C. 633a, 29 U.S.C. 791 and 42 U.S.C. 2000e–16.

If you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex, national origin or disability, you must contact an Equal Employment Opportunity (EEO) counselor within 45 calendar days of the alleged discriminatory action, or, in the case of a personnel action, within 45 calendar days of the effective date of the action, before you can file a formal complaint of discrimination with your agency. See, e.g. 29 CFR 1614. If you believe that you have been the victim of unlawful discrimination on the basis of age, you must either contact an EEO counselor as noted above or give notice of intent to sue to the Equal Employment Opportunity Commission (EEOC) within 180 calendar days of the alleged discriminatory action.

Whistleblower Protection Laws

A Federal employee with authority to take, direct others to take, recommend or approve any personnel action must not use that authority to take or fail to take, or threaten to take or fail to take, a personnel action against an employee

or applicant because of a disclosure of information by that individual that is reasonably believed to evidence violations of law, rule or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety, unless disclosure of such information is specifically prohibited by law and such information is specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Retaliation against an employee or applicant for making a protected disclosure is prohibited by 5 U.S.C. 2302(b)(8). If you believe that you have been the victim of whistleblower retaliation, you may file a written complaint (Form OSC–11) with the U.S. Office of Special Counsel at 1730 M Street NW., Suite 218, Washington, DC 20036–4505 or online through the OSC Web site—*http://www.osc.gov.*

Retaliation for Engaging in Protected Activity

A Federal agency cannot retaliate against an employee or applicant because that individual exercises his or her rights under any of the Federal antidiscrimination or whistleblower protection laws listed above. If you believe that you are the victim of retaliation for engaging in protected activity, you must follow, as appropriate, the procedures described in the Antidiscrimination Laws and Whistleblower Protection Laws sections or, if applicable, the administrative or negotiated grievance procedures in order to pursue any legal remedy.

Disciplinary Actions

Under the existing laws, each agency retains the right, where appropriate, to discipline a Federal employee for conduct that is inconsistent with Federal Antidiscrimination and Whistleblower Protection Laws up to and including removal. If OSC has initiated an investigation under 5 U.S.C. 1214, however, according to 5 U.S.C. 1214(f), agencies must seek approval from the Special Counsel to discipline employees for, among other activities, engaging in prohibited retaliation. Nothing in the No FEAR Act alters existing laws or permits an agency to take unfounded disciplinary action against a Federal employee or to violate the procedural rights of a Federal employee who has been accused of discrimination.

Additional Information

For further information regarding the No FEAR Act regulations, refer to 5 CFR part 724, as well as the appropriate offices within the Tennessee Valley Authority (e.g., Equal Opportunity Compliance, Human Resources, the Office of the Inspector General, and TVA's Ombudsman). Additional information regarding Federal antidiscrimination, whistleblower protection and retaliation laws can be found at the EEOC Web site—*http://www.eeoc.gov* and the OSC Web site—*http://www.osc.gov.*

Existing Rights Unchanged

Pursuant to section 205 of the No FEAR Act, neither the Act nor this notice creates, expands or reduces any rights otherwise available to any employee, former employee or applicant under the laws of the United States.

FOR FURTHER INFORMATION CONTACT: Linda J. Sales-Long, 865–632–2515.

Dated: April 24, 2009.

Linda J. Sales-Long,

Director, Equal Opportunity Compliance.

[FR Doc. E9–9927 Filed 4–29–09; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF VETERANS AFFAIRS

National Research Advisory Council; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the National Research Advisory Council will hold a meeting on Monday, June 22, 2009, in room GL–20 at the Greenhoot Cohen Building, 1722 Eye Street, NW., Washington, DC. The meeting will convene at 8:30 a.m. and end at 3 p.m. The meeting is open to the public.

The purpose of the Council is to provide external advice and review for VA's research mission. The agenda will include a review of the VA research portfolio and a summary of current budget allocations. The Council will also provide feedback on the direction/focus of VA's research initiatives.

Any member of the public wishing to attend the meeting or wishing further information should contact Jay A. Freedman, PhD, Designated Federal Officer, at (202) 461–1699. Oral comments from the public will not be accepted at the meeting. Written statements or comments should be transmitted electronically to *jay.freedman@va.gov* or mailed to Dr. Freedman at Department of Veterans Affairs, Office of Research and Development (12), 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: April 24, 2009.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. E9–9928 Filed 4–29–09; 8:45 am]

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Thursday,
April 30, 2009

Part II

Department of State

2009 Revised Exchange Visitor Skills List; Notice

DEPARTMENT OF STATE

[Public Notice: 6546]

2009 Revised Exchange Visitor Skills List

AGENCY: Department of State.

ACTION: Notice of Revised Exchange Visitor Skills List.

SUMMARY: The Exchange Visitor Skills List is a list of specialized knowledge and skills that are deemed necessary for the development of an exchange visitor's home country. It is used by Consular Officers to determine whether an exchange visitor applying for a J-visa is subject to Section 212(e) of the Immigration and Nationality Act, as amended.

DATES: The Exchange Visitor Skills List is effective on June 28, 2009.

FOR FURTHER INFORMATION CONTACT: Marcia Pryce, Deputy Chief, or Ann Kavalou, Waiver Review Officer; Waiver Review Division, SA–1, Room L 603, Visa Office, Bureau of Consular Affairs, Department of State, 2401 E Street, NW., Washington, DC 20522–0106. Telephone 202–663–2800.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of Section 212(e) of the Immigration and Nationality Act, as amended 8 U.S.C. 1182(e), and 22 CFR 41.63, the Secretary of State designated on April 25, 1972, and revised on February 10, 1978, a list of fields of specialized knowledge or skills (referred to as the Exchange Visitor Skills List) for countries which clearly required the services of exchange visitor participants engaged in one or more of such fields. Any alien who as a national or resident of one of those countries and obtained an exchange visitor visa and/or became a participant in an Exchange Visitor Program involving a designated field of specialized knowledge or skill after the effective date of those public notices was subject to the two-year foreign residence (home country physical presence) requirement of Section 212(e) of the Immigration and Nationality Act as provided by said section and 22 CFR 41.63. The first Exchange Visitor Skills List was published in 1972. New lists were published on June 12, 1984 and January 16, 1997. Exchange visitors who entered the United States prior to the effective date shall continue to be governed by the 1997 Exchange Visitor Skills List, as amended. The Exchange Visitor Skills List which follows incorporates all previous revisions and amendments still in effect, and has been developed by the Waiver Review Division, Visa Office, Bureau of Consular Affairs, after consultation with foreign governments and overseas posts.

The revised 2009 Exchange Visitor Skills List reads as follows:

Index to Codes

(01) AGRICULTURE, AGRICULTURE OPERATIONS, AND RELATED SCIENCES
(03) NATURAL RESOURCES AND CONSERVATION
(04) ARCHITECTURE AND RELATED SERVICES
(05) AREA, ETHNIC, CULTURAL, AND GENDER STUDIES
(09) COMMUNICATION, JOURNALISM, AND RELATED PROGRAMS
(10) COMMUNICATIONS TECHNOLOGIES, TECHNICIANS AND SUPPORT SERVICES
(11) COMPUTER AND INFORMATION SCIENCES AND SUPPORT SERVICES
(12) PERSONAL AND CULINARY SERVICES
(13) EDUCATION
(14) ENGINEERING
(15) ENGINEERING TECHNOLOGIES/TECHNICIANS
(16) FOREIGN LANGUAGES, LITERATURES, AND LINGUISTICS
(19) FAMILY AND CONSUMER SCIENCES/HUMAN SCIENCES
(21) TECHNOLOGY EDUCATION/INDUSTRIAL ARTS
(22) LEGAL PROFESSIONS AND STUDIES
(23) ENGLISH LANGUAGE AND LITERATURE/LETTERS
(24) LIBERAL ARTS AND SCIENCES, GENERAL STUDIES AND HUMANITIES
(25) LIBRARY SCIENCE
(26) BIOLOGICAL AND BIOMEDICAL SCIENCES
(27) MATHEMATICS AND STATISTICS
(29) MILITARY TECHNOLOGIES
(31) PARKS, RECREATION, LEISURE, AND FITNESS STUDIES
(38) PHILOSOPHY AND RELIGIOUS STUDIES
(39) THEOLOGY AND RELIGIOUS VOCATIONS
(40) PHYSICAL SCIENCES
(41) SCIENCE TECHNOLOGIES/TECHNICIANS
(42) PSYCHOLOGY
(43) SECURITY AND PROTECTIVE SERVICES
(44) PUBLIC ADMINISTRATION AND SOCIAL SERVICE PROFESSIONS
(45) SOCIAL SCIENCES
(46) CONSTRUCTION TRADES
(47) MECHANIC AND REPAIR TECHNOLOGIES/TECHNICIANS
(48) PRECISION PRODUCTION
(49) TRANSPORTATION AND MATERIALS MOVING
(50) VISUAL AND PERFORMING ARTS
(51) HEALTH PROFESSIONS AND RELATED CLINICAL SCIENCES
(52) BUSINESS, MANAGEMENT, MARKETING, AND RELATED SUPPORT SERVICES
(54) HISTORY
(60) MEDICAL RESIDENCY PROGRAMS

In groups that list a two-digit subject description with no four-digit subgroups following, the two-digit subject description is all-inclusive.

GROUP (1)

(01) Agriculture, Agriculture Operations, and Related Sciences

01.00 Agriculture, General
01.01 Agricultural Business and Management (including Production Operations and Mechanization)
01.06 Applied Horticulture/Horticulture
01.09 Animal Sciences (including Agricultural Animal Breeding; Animal Health and Nutrition; Dairy Science; Livestock Management; and Poultry Science)
01.10 Food Science
01.11 Plant Sciences (including Crop Science; Horticulture Science; Agricultural and Horticultural Plant Breeding; Pest Management; and Range Science)
01.12 Soil Science and Agronomy

GROUP (3)

(03) Natural Resources and Conservation

03.01 Natural Resources Conservation and Research & Environmental/Wildlife/Wildlands Science/Studies (including Environmental Protection)
03.02 Natural Resources Management and Policy
03.03 Fishing and Fisheries Sciences and Management
03.05 Forestry

GROUP (4)

(04) Architecture and Related Services

04.02 Architecture (including Environmental, Interior & Landscape Design; Architectural History; and Architectural Technology)
04.03 City/Urban, Community and Regional Planning; Architectural Urban Design and Planning

GROUP (5)

(05) Area/Regional, Ethnic, Cultural, and Gender Studies

GROUP (9)

(09) Communication, Journalism, and Related Programs

09.01 Communication and Media Studies
09.04 Journalism (including Broadcast Journalism; Photojournalism; On-Line/Web-page News)
09.07 Radio, Television, and Digital Communication (including Media/Multimedia)
09.09 Public Relations, Advertising, and Applied Communication
09.10 Publishing

GROUP (10)

(10) Communications Technologies, Technicians and Support Services

10.01 Communications Technology/Technicians
10.02 Audiovisual Communications Technologies/Technicians (including Photographic and Film/Video Technology/Technician and Assistant; Radio and Television Broadcasting Technology/Technician; and Recording Arts Technology/Technician)
10.03 Graphic Communications (including Printing Management; Prepress/Desktop Publishing and Digital Imaging Design; Animation; Interactive Technology; Video Graphics and Special Effects; Graphic and Printing Equipment Operator; Printing Press Operator; Computer Typography; and Composition Equipment Operator)

GROUP (11)

(11) Computer and Information Sciences and Support Services

11.01 Computer and Information Sciences, General (including Web Page Design; Database Administration; Cybernetics; Artificial Intelligence and Robotics and Information Technology)
11.02 Computer Programming
11.03 Data Processing
11.04 Information Science/Studies
11.05 Computer Systems Analysis
11.06 Data Entry/Microcomputer Applications & Word Processing
11.07 Computer Science (including Systems Engineering)
11.10 Computer/Information Technology Administration and Management

GROUP (12)

(12) Personal and Culinary Services

12.03 Funeral & Mortuary Service
12.05 Cooking, Culinary Arts and Related Services (including Baking and Pastry Arts; Bartending; Culinary Arts/Chef Training; Restaurant, Culinary, and Catering Management; Food Preparation/Professional Cooking; Meat Cutting; Food Service; Institutional Food Workers)

GROUP (13)

(13) Education

13.01 Education, General (including Educational Administration)
13.02 Bilingual, Multilingual, and Multicultural
13.03 Curriculum and Instruction (including Media Design)
13.06 Educational Assessment, Evaluation, and Research
13.09 Social and Philosophical Foundations of Education
13.10 Special Education and Teaching
13.11 Student Counseling and Personnel Services
13.12 Teacher Education and Professional Development, Specific Levels and Methods (including all types of levels and types of teaching including, but not limited to Adult and Continuing Education; Early Childhood, Elementary, Middle School and Secondary Education; Montessori Teacher Education; and Waldorf/Steiner Teacher Education)
13.13 Teacher Education and Professional Development, Specific Subject Areas (including, but not limited to Agriculture; Art; Business; Computers; Drama; Driver Safety; English, Foreign Languages; Geography; Health; History; Home Economics; Industrial Arts; Sales and Marketing; Math; Music; Physical Education; Psychology; Reading; Science; Social Studies; and Speech)

GROUP (14)

(14) Engineering

14.01 Engineering, General
14.02 Aerospace, Aeronautical and Astronautical Engineering
14.03 Agricultural/Biological Engineering and Bioengineering
14.05 Biomedical/Medical Engineering
14.07 Chemical Engineering
14.08 Civil Engineering (including Geotechnical, Structural, Water Resources, and Transportation and Highway Engineering)
14.09 Computer Hardware and Software Engineering
14.10 Electrical, Electronics and Communications Engineering (including Radio Engineering)
14.14 Environmental Engineering (including Pollution Control; Waste and Hazardous Material Disposal)
14.18 Materials Engineering
14.19 Mechanical Engineering
14.20 Metallurgical Engineering
14.21 Mining and Mineral Engineering
14.22 Naval Architecture and Marine Engineering
14.23 Nuclear Engineering
14.24 Ocean Engineering
14.25 Energy Engineering & Tech. (including Petroleum and Natural Gas)
14.33 Construction Engineering
14.35 Industrial/Manufacturing Engineering
14.38 Surveying Engineering
14.39 Geological/Geophysical Engineering

GROUP (16)

(16) Foreign Languages, Literatures, and Linguistics (including Foreign Languages and Literatures; Linguistics; Language Interpretation and Translation; Comparative Literature; Language, Literature and Linguistics for all Languages in the world including various forms and study of sign language)

GROUP (19)

(19) Family and Consumer Sciences/Human Sciences (formerly Home Economics)

19.01 Family and Consumer Sciences/Human Sciences, General (formerly Home Economics)
19.05 Foods, Nutrition, and Related Services
19.09 Apparel and Textiles (including Textile Manufacturing; Textile Science; Apparel and Textile Marketing Management; and Fashion and Fabric Consulting)

GROUP (22)

(22) Legal Professions and Studies

(including Law, Legal Research, Judicature and all branches and specialties in the practice of law)

GROUP (23)

(23) English Language and Literature/Letters

(including English Literature, Composition, and various types of English Writing)

GROUP (24)

(24) Liberal Arts And Sciences, General Studies and Humanities

GROUP (25)

(25) Library Science

GROUP (26)

(26) Biological Sciences

26.01 Biology

26.03 Botany/Plant Biology
26.04 Anatomical Sciences (including Anatomy)
26.05 Microbiological Sciences and Immunology (also under Medicine)
26.07 Zoology/Animal Biology
26.08 Genetics (all types, including Animal; Plant; Molecular; Microbial and Eukaryotic; and Human; as well as Genetic Engineering) Biomathematics and Bioinformatics
26.12 Biotechnology
26.13 Ecology, Population Biology

GROUP (27)

(27) Mathematics and Statistics

GROUP (31)

(31) Parks, Recreation, Leisure, Fitness Studies and Camp Counselor

31.01 Parks, Recreation and Leisure Studies
31.05 Health and Physical Education/ Fitness
36.0101 Camp Counselor

GROUP (38)

(38) Philosophy and Religious Studies

GROUP (39)

(39) Theology and Religious Vocations

GROUP (40)

(40) Physical Sciences

40.01 Physical Sciences
40.02 Astronomy; Astrophysics; Planetary Astronomy and Science; and Space Technology
40.04 Atmospheric Sciences and Meteorology
40.05 Chemistry
40.06 Geological and Earth Sciences/ Geosciences (including Oceanography; Hydrology)
40.08 Physics

GROUP (41)

(41) Science & Laboratory Technologies/ Technicians

GROUP (42)

(42) Psychology

(including, but not limited to Psychometrics and Psychobiology)

GROUP (43)

(43) Security and Protective Services

(including Law Enforcement, Fire Protection, and Corrections)

GROUP (44)

(44) Public Administration and Social Service Professions

44.04 Public Administration (including City Planning, Urban Planning, Urban Transportation)
44.07 Social Work/Youth Services (including Welfare and Probation)

GROUP (45)

(45) Social Sciences

45.02 Anthropology (including Physical Anthropology)
45.03 Archeology
45.04 Criminology
45.05 Demography and Population Studies
45.06 Economics
45.07 Geography and Cartography
45.09 International Relations and Affairs
45.10 Political Science and Government
45.11 Sociology
45.99 Social Sciences, Other

GROUP (46)

(46) Construction Trades

GROUP (47)

(47) Mechanic and Repair Technologies/ Technicians

GROUP (48)

(48) Precision Production

Application of technical knowledge and skills to create products using techniques of precision craftsmanship or technical illustration.

48.00 Precision Production Trades (including Metal Working, Woodworking, and Drafting)

GROUP (49)

(49) Transportation and Materials Moving

49.01 Air Transportation (including Aeronautics/Aviation/Aerospace Science and Technology, General; Airline/Commercial/Professional Pilot and Flight Crew; Aviation/ Airway Management and Operations; Air Traffic Controller; Flight Instructor)
49.02 Ground Transportation (including Construction/Heavy Equipment/Earthmoving Equipment Operation; Commercial Vehicle Operation; and Mobil Crane Operation)
49.03 Marine Transportation (including Commercial Fishing; Diver, Professional Instructor; Marine Science/Merchant Marine)

GROUP (50)

(50) Visual and Performing Arts

50.01 Visual and Performing Arts (including, but not limited to: Music, Theatre, Sculpture, Photography, TV & Motion Picture Arts & Sciences)
50.04 Design and Applied Arts (including Commercial and Advertising Art; Industrial Design; Fashion/Apparel Design; Interior Design; Graphic Design; and Illustration)

GROUP (51)

(51) Health Services/Allied Health/ Health Sciences/Medical Research, Gen'l

51.01 Chiropractic
51.02 Communication Disorders Sciences & Services (including Speech Language Pathology and Sign Language Interpretation)
51.04 Dentistry, Advanced/Graduate Dentistry, Oral Sciences, Dental Technology (including Orthodontics)
51.06 Dental Support Services/ Assistant
51.07 Health and Medical Administrative Services (including statistics and documentation)
51.08 Medical Support Services/ Assistant
51.09 Allied Health Diagnostic, Intervention, and Treatment Professions (including, but not limited to the following fields: Emergency Medical; Cardiovascular; Electrocardiograph; Electroneurodiagnostic/ Electroencephalographic; Nuclear Medical; Perfusionist; Radiation Therapy; Respiratory Care Therapy; Surgical; Sonography and Ultrasound; Radiography; Athletic Training; Genetic Therapy; Cardiopulmonary; and Radiation Protection/Health Physics)
51.10 Clinical/Medical Laboratory Science and Allied Professions
51.12 Medicine, Medical Research, including all specialties and fields (including, but not limited to: Allergy and Immunology, Anesthesiology, Audiology, Cancer, Cardiography, Cardiology, Colon and Rectal Surgery, Dermatology, Embryology, Emergency Medicine, Epidemiology, Family Practice, Forensic Medicine, Gastroenterology, Geriatrics, Hematology, Internal Medicine, Medical Genetics, Neurological Surgery, Neurology, Nuclear Medicine, Obstetrics and Gynecology, Oncology, Ophthalmology, Orthopedic Surgery, Otolaryngology, Pathology, Pediatrics, Pharmacology and Pharmaceutics, Physical Medicine and Rehabilitation, Physiology, Plastic Surgery, Podiatry, Preventive Medicine, Proctology, Psychiatry, Radiology, Radiation Oncology, Speech Pathology, Sports Medicine, Surgery, Thoracic Surgery, Toxicology, Transitional,

Thoracic Surgery, Urology, Virology)
51.15 Mental and Social Health Services (including Substance Abuse Counseling; Marriage/Family Counseling; and Psychoanalysis)
51.16 Nursing (including all specialties)
51.17 Optometry
51.19 Osteopathic Medicine/Osteopathy
51.20 Pharmacy (including Administration)
51.22 Public Health (including, but not limited to Environmental Health; Occupational Health and Industrial Hygiene; Public Health Education and Promotion; International Health; Community Health and Preventive Medicine; and Health Services Administration)
51.23 Rehabilitation and Therapeutic Professions
51.24 Veterinary Medicine
51.25 Veterinary Biomedical and Clinical Sciences (including all Veterinary Sciences; Anatomy; Physiology; Microbiology; Pathology; and Toxicology as well as Animal/Veterinary Surgery and Medicine)
51.27 Medical Illustration and Informatics & Medical Photography
51.31 Dietetics and Clinical Nutrition
51.33 Alternative Medicine

GROUP (52)

(52) Business, Management, Marketing, and Related Support Services

52.02 Business Administration, Management and Operations (including Industrial Administration & Management; Small Business Administration/Operations; Franchising)
52.03 Accounting and Related Services
52.04 Business Operations Support and Assistant Services
52.06 Business/Managerial Economics (including Management Studies & Economic Information Analysis)
52.08 Finance, Banking and Financial Management Services
52.09 Hospitality Administration/Management (including Hotel, Motel, and Restaurant Management & Tourism and Travel Services Management)
52.10 Human Resources Management and Services (including Labor and Industrial Relations; Organizational Behavior Studies; and Labor Studies)
52.11 International Business/Trade/Commerce
52.12 Management Information Systems and Services
52.13 Management Sciences and Quantitative Methods (including Operations Research; Statistics)
52.14 Marketing/Marketing Management
52.15 Real Estate
52.16 Taxation
52.17 Insurance
52.20 Construction Management

GROUP (54)

(54) History

54.01 History (including Regional History, such as American, European and Asian; History of Science and Technology; and Public/Applied History and Archival Administration)

GROUP (60)

(60) Residency Programs

Residency programs are designed to prepare medical doctors (M.D.) or osteopaths (DO), dentists (DDS, D.M.D.), and veterinarians (D.V.M.) for certification as practitioners of recognized specialties in their respective professions. These programs are approved and accredited by designated professional associations and require from one to five years to complete, depending on the program. Medical residencies usually require completion of an internship after the M.D. degree for program entry, while requirements vary for dentistry and veterinary programs.

60.01 Dental Residency Programs
60.02 Medical Residency Programs
The program sponsor for medical residency programs is The Educational Commission for Foreign Medical Graduates
60.03 Veterinary Residency Programs

End of Index

Skills List by Country

Albania

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Algeria

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Argentina

GROUP (01)

01.00 Agriculture, General
01.01 Agricultural Business and Management
01.09 Animal Sciences
01.10 Food Science
01.11 Plant Sciences
01.12 Soil Science and Agronomy
All of GROUP (03)

GROUP (04)

04.03 City/Urban, Community and Regional Planning; Architectural Urban Design and Planning

All of GROUP (05)

GROUP (09)

09.07 Radio, Television, and Digital Communication

GROUP (10)

10.01 Communications Technology/Technicians

GROUP (11)

11.01 Computer and Information Sciences, General
11.02 Computer Programming
11.03 Data Processing
11.04 Information Science/Studies
11.05 Computer Systems Analysis
11.07 Computer Science
11.10 Computer/Information Technology Administration and Management

GROUP (13)

13.06 Educational Assessment, Evaluation, and Research
13.09 Social and Philosophical Foundations of Education
13.12 Teacher Education and Professional Development, Specific Levels and Methods
13.13 Teacher Education and Professional Development, Specific Subject Areas

GROUP (14)

14.01 Engineering, General
14.02 Aerospace, Aeronautical and Astronautical Engineering
14.03 Agricultural/Biological Engineering and Bioengineering
14.05 Biomedical/Medical Engineering
14.07 Chemical Engineering
14.08 Civil Engineering
14.09 Computer Hardware and Software Engineering
14.10 Electrical, Electronics and Communications Engineering
14.14 Environmental Engineering
14.18 Materials Engineering
14.20 Metallurgical Engineering
14.21 Mining and Mineral Engineering
14.23 Nuclear Engineering
14.25 Energy Engineering & Tech.
14.35 Industrial/Manufacturing Engineering
14.39 Geological/Geophysical Engineering
All of GROUP (22)

GROUP (26)

26.05 Microbiological Sciences and Immunology
26.08 Genetics
26.11 Biomathematics and Bioinformatics
26.12 Biotechnology
26.13 Ecology, Population Biology
All of GROUP (27)

GROUP (40)

40.01 Physical Sciences
40.05 Chemistry
40.06 Geological and Earth Sciences/Geosciences
40.08 Physics
All of GROUP (43)
All of GROUP (44)

GROUP (45)

45.04 Criminology
45.05 Demography and Population Studies
45.06 Economics
45.10 Political Science and Government
45.11 Sociology

GROUP (51)

51.09 Allied Health Diagnostic, Intervention, and Treatment Professions
51.12 Medicine, Medical Research, including all specialties and fields
51.22 Public Health
51.27 Medical Illustration and Informatics & Medical Photography

GROUP (52)

52.02 Business Administration, Management and Operations
52.10 Human Resources Management and Services

Armenia

All of GROUP (01)

GROUP (03)

03.01 Natural Resources Conservation and Research & Environmental/Wildlife/Wildlands Science/Studies
03.03 Fishing and Fisheries Sciences and Management
03.05 Forestry
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GROUP (44)

44.07 Social Work/Youth Services

GROUP (45)

45.02 Anthropology
45.03 Archeology
45.04 Criminology
45.05 Demography and Population Studies
45.06 Economics
45.10 Political Science and Government
45.11 Sociology
45.99 Social Sciences, Other
All of GROUP (47)

GROUP (51)

51.24 Veterinary Medicine
51.25 Veterinary Biomedical and Clinical Sciences
All of GROUP (54)

GROUP (60)

60.03 Veterinary Residency Programs

Bahrain

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Bangladesh

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Belize

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Benin

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Bolivia

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Brazil

All of GROUP (01)
All of GROUP (03)

GROUP (04)

04.03 City/Urban, Community and Regional Planning; Architectural Urban Design and Planning

GROUP (09)

09.01 Communication and Media Studies
09.04 Journalism
09.07 Radio, Television, and Digital Communication

GROUP (10)

10.01 Communications Technology/Technicians

GROUP (11)

11.01 Computer and Information Sciences, General
11.02 Computer Programming
11.03 Data Processing
11.04 Information Science/Studies
11.05 Computer Systems Analysis
11.07 Computer Science

GROUP (13)

13.03 Curriculum and Instruction
13.12 Teacher Education and Professional Development, Specific Levels and Methods
13.13 Teacher Education and Professional Development, Specific Subject Areas

GROUP (14)

14.02 Aerospace, Aeronautical and Astronautical Engineering
14.03 Agricultural/Biological Engineering and Bioengineering
14.05 Biomedical/Medical Engineering
14.07 Chemical Engineering
14.08 Civil Engineering
14.09 Computer Hardware and Software Engineering
14.10 Electrical, Electronics and Communications Engineering
14.14 Environmental Engineering
14.18 Materials Engineering
14.19 Mechanical Engineering
14.21 Mining and Mineral Engineering
14.22 Naval Architecture and Marine Engineering
14.23 Nuclear Engineering
14.24 Ocean Engineering
14.25 Energy Engineering & Tech.
14.35 Industrial/Manufacturing Engineering
14.38 Surveying Engineering

All of GROUP (25)

GROUP (26)

26.01 Biology
26.03 Botany/Plant Biology
26.05 Microbiological Sciences and Immunology
26.07 Zoology/Animal Biology
26.08 Genetics
26.13 Ecology, Population Biology

All of GROUP (27)
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GROUP (51)

51.07 Health and Medical Administrative Services

51.12 Medicine, Medical Research, including all specialties and fields
51.15 Mental and Social Health Services
51.16 Nursing
51.22 Public Health
51.23 Rehabilitation and Therapeutic Professions

GROUP (52)

52.02 Business Administration, Management and Operations
52.17 Insurance

GROUP (60)

60.02 Medical Residency Programs

Burkina Faso

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Burma

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Cambodia

GROUP (01)

01.01 Agricultural Business and Management

GROUP (03)

03.01 Natural Resources Conservation and Research & Environmental/ Wildlife/Wildlands Science/Studies

GROUP (04)

04.03 City/Urban, Community and Regional Planning; Architectural Urban Design and Planning

GROUP (10)

10.01 Communications Technology/ Technicians

GROUP (13)

13.01 Education, General
14.14 Environmental Engineering

GROUP (44)

44.04 Public Administration

GROUP (51)

51.08 Medical Support Services/ Assistant
51.12 Medicine, Medical Research, including all specialties and fields

Cameroon

All of GROUP (01)

GROUP (03)

03.01 Natural Resources Conservation and Research & Environmental/ Wildlife/Wildlands Science/Studies
03.05 Forestry
All of GROUP (04)
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GROUP (19)

19.05 Foods, Nutrition, and Related Services
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GROUP (31)

31.01 Parks, Recreation and Leisure Studies
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GROUP (51)

51.01 Chiropractic
51.04 Dentistry, Advanced/Graduate Dentistry, Oral Sciences, Dental Technology
51.06 Dental Support Services/ Assistant
51.07 Health and Medical Administrative Services
51.08 Medical Support Services/ Assistant
51.09 Allied Health Diagnostic, Intervention, and Treatment Professions
51.10 Clinical/Medical Laboratory Science and Allied Professions
51.12 Medicine, Medical Research, including all specialties and fields
51.15 Mental and Social Health Services
51.16 Nursing
51.17 Optometry
51.19 Osteopathic Medicine/ Osteopathy
51.20 Pharmacy
51.22 Public Health
51.23 Rehabilitation and Therapeutic Professions
51.24 Veterinary Medicine
51.25 Veterinary Biomedical and Clinical Sciences
51.27 Medical Illustration and Informatics & Medical Photography
51.31 Dietetics and Clinical Nutrition
51.33 Alternative Medicine

GROUP (52)

52.02 Business Administration, Management and Operations
52.03 Accounting and Related Services
52.04 Business Operations Support and Assistant Services
52.06 Business/Managerial Economics

52.08 Finance, Banking and Financial Management Services
52.09 Hospitality Administration/Management
52.11 International Business/Trade/Commerce
52.12 Management Information Systems and Services
52.13 Management Sciences and Quantitative Methods
52.14 Marketing/Marketing Management
52.15 Real Estate
52.20 Construction Management
All of GROUP (54)
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Cape Verde

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Chile

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All of GROUP (13)

GROUP (14)

14.02 Aerospace, Aeronautical and Astronautical Engineering
14.05 Biomedical/Medical Engineering
14.07 Chemical Engineering
14.09 Computer Hardware and Software Engineering
14.10 Electrical, Electronics and Communications Engineering
14.14 Environmental Engineering
14.19 Mechanical Engineering
14.21 Mining and Mineral Engineering
14.22 Naval Architecture and Marine Engineering
14.25 Energy Engineering & Tech.
14.35 Industrial/Manufacturing Engineering
14.38 Surveying Engineering
All of GROUP (16)

GROUP (19)

19.05 Foods, Nutrition, and Related Services
All of GROUP (23)
All of GROUP (25)

GROUP (26)

26.07 Zoology/Animal Biology
26.08 Genetics
26.13 Ecology, Population Biology
All of GROUP (27)

GROUP (31)

31.01 Parks, Recreation and Leisure Studies
31.05 Health and Physical Education/Fitness
All of GROUP (38)

GROUP (45)

45.02 Anthropology
45.03 Archaeology
45.04 Criminology
45.05 Demography and Population Studies
45.06 Economics
45.10 Political Science and Government
45.11 Sociology
45.99 Social Sciences, Other
All of GROUP (47)

GROUP (51)

51.24 Veterinary Medicine
51.25 Veterinary Biomedical and Clinical Sciences
All of GROUP (54)

GROUP (60)

60.03 Veterinary Residency Programs

China—Mainland

All of GROUP (01)
All of GROUP (03)
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Colombia

GROUP (01)

01.01 Agricultural Business and Management
01.06 Applied Horticulture/Horticulture
01.12 Soil Science and Agronomy
All of GROUP (03)

GROUP (09)

09.01 Communication and Media Studies
09.04VJournalism

GROUP (10)

10.01 Communications Technology/Technicians
10.02 Audiovisual Communications Technologies/Technicians
All of GROUP (11)
All of GROUP (13)

GROUP (14)

14.02 Aerospace, Aeronautical and Astronautical Engineering
14.03 Agricultural/Biological Engineering and Bioengineering
14.05 Biomedical/Medical Engineering
14.09 Computer Hardware and Software Engineering
14.21 Mining and Mineral Engineering
14.22 Naval Architecture and Marine Engineering
14.23 Nuclear Engineering
14.25 Energy Engineering & Tech.
14.35 Industrial/Manufacturing Engineering
All of GROUP (16)
All of GROUP (23)

GROUP (26)

26.05 Microbiological Sciences and Immunology
26.07 Zoology/Animal Biology
26.08 Genetics
26.11 Biomathematics and Bioinformatics
26.12 Biotechnology
26.13 Ecology, Population Biology
All of GROUP (27)

GROUP (40)

40.06 Geological and Earth Sciences/Geosciences
All of GROUP (43)
All of GROUP (44)
All of GROUP (48)
All of GROUP (49)

GROUP (51)

51.02 Communication Disorders Sciences & Services
51.04 Dentistry, Advanced/Graduate Dentistry, Oral Sciences, Dental Technology
51.06 Dental Support Services/Assistant
51.09 Allied Health Diagnostic, Intervention, and Treatment Professions

51.12 Medicine, Medical Research, including all specialties and fields
51.16 Nursing
51.17 Optometry
51.19 Osteopathic Medicine/Osteopathy
51.20 Pharmacy
51.22 Public Health
51.23 Rehabilitation and Therapeutic Professions
51.24 Veterinary Medicine
51.25 Veterinary Biomedical and Clinical Sciences
51.31 Dietetics and Clinical Nutrition
51.33 Alternative Medicine
All of GROUP (60)

Congo (Kinshasa)

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Costa Rica

All of GROUP (01)
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GROUP (04)

04.03 City/Urban, Community and Regional Planning; Architectural Urban Design and Planning
All of GROUP (05)
All of GROUP (09)
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All of GROUP (11)

GROUP (12)

12.03 Funeral & Mortuary Service

GROUP (13)

13.01 Education, General
13.09 Social and Philosophical Foundations of Education
13.10 Special Education and Teaching
13.12 Teacher Education and Professional Development, Specific Levels and Methods
13.13 Teacher Education and Professional Development, Specific Subject Areas
All of GROUP (14)
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Djibouti

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Dominican Republic

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East Timor

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Ecuador

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El Salvador

GROUP (01)

01.00 Agriculture, General
01.01 Agricultural Business and Management
01.06 Applied Horticulture/Horticulture
01.09 Animal Sciences
01.10 Food Science
01.12 Soil Science and Agronomy

GROUP (03)

03.01 Natural Resources Conservation and Research & Environmental/Wildlife/Wildlands Science/Studies
03.02 Natural Resources Management and Policy
03.03 Fishing and Fisheries Sciences and Management

GROUP (04)

04.03 City/Urban, Community and Regional Planning; Architectural Urban Design and Planning

GROUP (09)

09.01 Communication and Media Studies
09.07 Radio, Television, and Digital Communication
09.10 Publishing
All of GROUP (11)
All of GROUP (12)

GROUP (13)

13.01 Education, General
13.02 Bilingual, Multilingual, and Multicultural
13.06 Educational Assessment, Evaluation, and Research
13.09 Social and Philosophical Foundations of Education
13.10 Special Education and Teaching
13.11 Student Counseling and Personnel Services
13.12 Teacher Education and Professional Development, Specific Levels and Methods
13.13 Teacher Education and Professional Development, Specific Subject Areas

GROUP (14)

14.01 Engineering, General
14.02 Aerospace, Aeronautical and Astronautical Engineering
14.05 Biomedical/Medical Engineering
14.07 Chemical Engineering
14.09 Computer Hardware and Software Engineering
14.18 Materials Engineering
14.20 Metallurgical Engineering
14.22 Naval Architecture and Marine Engineering
14.25 Energy Engineering & Tech.
14.33 Construction Engineering
14.35 Industrial/Manufacturing Engineering
14.39 Geological/Geophysical Engineering
All of GROUP (16)

GROUP (19)

19.05 Foods, Nutrition, and Related Services
All of GROUP (23)
All of GROUP (24)
All of GROUP (25)

GROUP (26)

26.04 Anatomical Sciences
26.05 Microbiological Sciences and Immunology
26.07 Zoology/Animal Biology
26.08 Genetics
26.11 Biomathematics and Bioinformatics
26.12 Biotechnology
26.13 Ecology, Population Biology

GROUP (31)

31.01 Parks, Recreation and Leisure Studies
31.05 Health and Physical Education/Fitness
All of GROUP (38)
All of GROUP (40)
All of GROUP (43)
All of GROUP (44)

GROUP (45)

45.02 Anthropology
45.03 Archeology
45.05 Demography and Population Studies
45.07 Geography and Cartography
45.09 International Relations and Affairs
45.10 Political Science and Government
All of GROUP (49)
All of GROUP (50)

GROUP (51)

51.02 Communication Disorders Sciences & Services
51.04 Dentistry, Advanced/Graduate Dentistry, Oral Sciences, Dental Technology
51.06 Dental Support Services/Assistant
51.07 Health and Medical Administrative Services
51.08 Medical Support Services/Assistant
51.09 Allied Health Diagnostic, Intervention, and Treatment Professions
51.10 Clinical/Medical Laboratory Science and Allied Professions
51.15 Mental and Social Health Services
51.16 Nursing
51.17 Optometry
51.19 Osteopathic Medicine/Osteopathy
51.20 Pharmacy
51.22 Public Health
51.23 Rehabilitation and Therapeutic Professions
51.24 Veterinary Medicine
51.25 Veterinary Biomedical and Clinical Sciences
51.27 Medical Illustration and Informatics & Medical Photography
51.31 Dietetics and Clinical Nutrition
51.33 Alternative Medicine

GROUP (52)

52.03 Accounting and Related Services
52.06 Business/Managerial Economics
52.09 Hospitality Administration/Management
52.10 Human Resources Management and Services
52.11 International Business/Trade/Commerce
52.12 Management Information Systems and Services
52.15 Real Estate
52.16 Taxation
52.20 Construction Management
All of GROUP (54)
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Eritrea

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Ethiopia

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Fiji

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Gabon

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Gambia, The

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Georgia

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Ghana

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GROUP (19)

19.01 Family and Consumer Sciences/Human Sciences, General
19.05 Foods, Nutrition, and Related Services
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Guatemala

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GROUP (09)

09.01 Communication and Media Studies
09.04 Journalism—
09.07 Radio, Television, and Digital Communication
09.10 Publishing
All of GROUP (10)
All of GROUP (11)
All of GROUP (13)
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GROUP (19)

19.01 Family and Consumer Sciences/Human Sciences, General
19.05 Foods, Nutrition, and Related Services
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GROUP (52)

52.02 Business Administration, Management and Operations
52.03 Accounting and Related Services
52.04 Business Operations Support and Assistant Services
52.06 Business/Managerial Economics
52.08 Finance, Banking and Financial Management Services
52.09 Hospitality Administration/Management
52.10 Human Resources Management and Services
52.11 International Business/Trade/Commerce
52.12 Management Information Systems and Services
52.13 Management Sciences and Quantitative Methods
52.15 Real Estate
52.16 Taxation
52.20 Construction Management
All of GROUP (60)

Guyana

All of GROUP (01)
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Haiti

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Honduras

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India

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GROUP (19)

19.01 Family and Consumer Sciences/Human Sciences, General
19.05 Foods, Nutrition, and Related Services
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Indonesia

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Jamaica

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Kazakhstan

GROUP (01)

01.10 Food Science
01.11 Plant Sciences
01.12 Soil Science and Agronomy
All of GROUP (03)
All of GROUP (04)

GROUP (09)

09.01 Communication and Media Studies
09.04 Journalism
09.07 Radio, Television, and Digital Communication
All of GROUP (10)
All of GROUP (11)

GROUP (13)

13.01 Education, General
13.02 Bilingual, Multilingual, and Multicultural
13.03 Curriculum and Instruction
13.06 Educational Assessment, Evaluation, and Research
13.13 Teacher Education and Professional Development, Specific Subject Areas

GROUP (14)

14.01 Engineering, General
14.02 Aerospace, Aeronautical and Astronautical Engineering
14.03 Agricultural/Biological Engineering and Bioengineering
14.07 Chemical Engineering
14.08 Civil Engineering
14.09 Computer Hardware and Software Engineering
14.10 Electrical, Electronics and Communications Engineering
14.14 Environmental Engineering
14.18 Materials Engineering
14.19 Mechanical Engineering
14.20 Metallurgical Engineering
14.21 Mining and Mineral Engineering
14.22 Naval Architecture and Marine Engineering
14.23 Nuclear Engineering
14.25 Energy Engineering & Tech.
14.33 Construction Engineering
14.35 Industrial/Manufacturing Engineering
14.38 Surveying Engineering
14.39 Geological/Geophysical Engineering
All of GROUP (16)

GROUP (19)

19.05 Foods, Nutrition, and Related Services
19.09 Apparel and Textiles
All of GROUP (22)
All of GROUP (23)
All of GROUP (24)
All of GROUP (25)

GROUP (26)

26.01 Biology
26.03 Botany/Plant Biology
26.05 Microbiological Sciences and Immunology
26.08 Genetics
26.12 Biotechnology
26.13 Ecology, Population Biology
All of GROUP (40)
All of GROUP (42)
All of GROUP (44)

GROUP (45)

45.05 Demography and Population Studies
45.06 Economics
45.07 Geography and Cartography
45.09 International Relations and Affairs
45.10 Political Science and Government
45.11 Sociology
45.99 Social Sciences, Other
All of GROUP (46)
All of GROUP (47)
All of GROUP (49)
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GROUP (51)

51.07 Health and Medical Administrative Services
51.09 Allied Health Diagnostic, Intervention, and Treatment Professions
51.12 Medicine, Medical Research, including all specialties and fields
51.20 Pharmacy
51.22 Public Health
51.23 Rehabilitation and Therapeutic Professions

GROUP (52)

52.02 Business Administration, Management and Operations
52.03 Accounting and Related Services
52.08 Finance, Banking and Financial Management Services
52.09 Hospitality Administration/Management
52.11 International Business/Trade/Commerce
52.13 Management Sciences and Quantitative Methods
52.20 Construction Management

Kenya

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Kosovo

GROUP (01)

01.01 Agricultural Business and Management
01. Applied Horticulture/Horticulture

GROUP (03)

03.01 Natural Resources Conservation and Research & Environmental/Wildlife/Wildlands Science/Studies
03.02 Natural Resources Management and Policy
03.05 Forestry
All of GROUP (04)
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Laos

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Lebanon

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Liberia

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Malawi

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GROUP (14)

14.01 Engineering, General
14.03 Agricultural/Biological Engineering and Bioengineering
14.05 Biomedical/Medical Engineering
14.07 Chemical Engineering
14.08 Civil Engineering
14.09 Computer Hardware and Software Engineering

14.10 Electrical, Electronics and Communications Engineering
14.14 Environmental Engineering
14.18 Materials Engineering
14.19 Mechanical Engineering
14.20 Metallurgical Engineering
14.21 Mining and Mineral Engineering
14.25 Energy Engineering & Tech.
14.33 Construction Engineering
14.35 Industrial/Manufacturing Engineering
14.38 Surveying Engineering
14.39 Geological/Geophysical Engineering
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Malaysia

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Mali

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Mauritania

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Mauritius

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GROUP (09)

09.01 Communication and Media Studies
09.07 Radio, Television, and Digital Communication

GROUP (10)

10.01 Communications Technology/Technicians
10.02 Audiovisual Communications Technologies/Technicians
All of GROUP (11)
All of GROUP (13)

GROUP (14)

14.01 Engineering, General
14.02 Aerospace, Aeronautical and Astronautical Engineering
14.05 Biomedical/Medical Engineering
14.07 Chemical Engineering
14.08 Civil Engineering
14.09 Computer Hardware and Software Engineering
14.10 Electrical, Electronics and Communications Engineering
14.14 Environmental Engineering
14.18 Materials Engineering
14.19 Mechanical Engineering
14.20 Metallurgical Engineering
14.22 Naval Architecture and Marine Engineering
14.25 Energy Engineering & Tech.
14.33 Construction Engineering
14.35 Industrial/Manufacturing Engineering
14.38 Surveying Engineering
14.39 Geological/Geophysical Engineering
All of GROUP (16)

GROUP (19)

19.05 Foods, Nutrition, and Related Services
All of GROUP (22)
All of GROUP (23)
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GROUP (31)

31.01 Parks, Recreation and Leisure Studies
31.05 Health and Physical Education/Fitness

All of GROUP (38)

GROUP (40)

40.01 Physical Sciences
40.02 Astronomy; Astrophysics; Planetary Astronomy and Science; and Space Technology
40.04 Atmospheric Sciences and Meteorology
40.05 Chemistry
40.06 Geological and Earth Sciences/Geosciences
All of GROUP (41)
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GROUP (51)

51.01 Chiropractic
51.04 Dentistry, Advanced/Graduate Dentistry, Oral Sciences, Dental Technology
51.06 Dental Support Services/Assistant
51.07 Health and Medical Administrative Services
51.08 Medical Support Services/Assistant
51.10 Clinical/Medical Laboratory Science and Allied Professions
51.12 Medicine, Medical Research, including all specialties and fields
51.15 Mental and Social Health Services
51.16 Nursing
51.17 Optometry
51.19 Osteopathic Medicine/Osteopathy
51.20 Pharmacy
51.23 Rehabilitation and Therapeutic Professions
51.24 Veterinary Medicine
51.25 Veterinary Biomedical and Clinical Sciences
51.27 Medical Illustration and Informatics & Medical Photography
51.31 Dietetics and Clinical Nutrition

GROUP (52)

52.20 Construction Management
All of GROUP (54)

Montenegro

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Mozambique

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Namibia

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GROUP (31)

31.01 Parks, Recreation and Leisure Studies
31.05 Health and Physical Education/Fitness
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Nepal

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Nicaragua

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Niger

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GROUP (09)

09.01 Communication and Media Studies
09.04 Journalism—
09.07 Radio, Television, and Digital Communication
09.09 Public Relations, Advertising, and Applied Communication

GROUP (10)

10.01 Communications Technology/Technicians
10.02 Audiovisual Communications Technologies/Technicians
All of GROUP (11)
All of GROUP (13)

GROUP (14)

14.01 Engineering, General
14.03 Agricultural/Biological Engineering and Bioengineering
14.05 Biomedical/Medical Engineering
14.07 Chemical Engineering
14.08 Civil Engineering
14.09 Computer Hardware and Software Engineering
14.10 Electrical, Electronics and Communications Engineering
14.14 Environmental Engineering
14.18 Materials Engineering
14.19 Mechanical Engineering
14.20 Metallurgical Engineering
14.21 Mining and Mineral Engineering
14.23 Nuclear Engineering
14.25 Energy Engineering & Tech.
14.33 Construction Engineering
14.35 Industrial/Manufacturing Engineering
14.38 Surveying Engineering
14.39 Geological/Geophysical Engineering
All of GROUP (26)
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GROUP (49)

49.01 Air Transportation
49.02 Ground Transportation
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Nigeria

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Oman

GROUP (01)

01.00 Agriculture, General
01.01 Agricultural Business and Management

GROUP (03)

03.03 Fishing and Fisheries Sciences and Management

GROUP (04)

04.02 Architecture

GROUP (13)

13.10 Special Education and Teaching
13.12 Teacher Education and Professional Development, Specific Levels and Methods

GROUP (14)

14.08 Civil Engineering
14.10 Electrical, Electronics and Communications Engineering
14.19 Mechanical Engineering
14.20 Metallurgical Engineering
14.22 Naval Architecture and Marine Engineering
14.33 Construction Engineering
All of GROUP (22)
All of GROUP (26)
All of GROUP (27)

GROUP (40)

40.05 Chemistry
40.06 Geological and Earth Sciences/Geosciences
40.08 Physics
All of GROUP (41)
All of GROUP (44)

GROUP (45)

45.06 Economics
All of GROUP (46)
All of GROUP (47)

GROUP (51)

51.01 Chiropractic
51.04 Dentistry, Advanced/Graduate Dentistry, Oral Sciences, Dental Technology
51.06 Dental Support Services/Assistant
51.07 Health and Medical Administrative Services
51.09 Allied Health Diagnostic, Intervention, and Treatment Professions
51.10 Clinical/Medical Laboratory Science and Allied Professions
51.12 Medicine, Medical Research, including all specialties and fields
51.16 Nursing
51.17 Optometry
51.22 Public Health
51.23 Rehabilitation and Therapeutic Professions
51.33 Alternative Medicine

GROUP (52)

52.20 Construction Management

Palestinian Authority (Gaza and West Bank), The

All of GROUP (01)

GROUP (03)

03.01 Natural Resources Conservation and Research & Environmental/Wildlife/Wildlands Science/Studies
03.02 Natural Resources Management and Policy

GROUP (04)

04.03 City/Urban, Community and Regional Planning; Architectural Urban Design and Planning
All of GROUP (05)

GROUP (09)

09.01 Communication and Media Studies
09.04 Journalism—
09.07 Radio, Television, and Digital Communication
09.09 Public Relations, Advertising, and Applied Communication
All of GROUP (10)
All of GROUP (11)
All of GROUP (13)

GROUP (14)

14.01 Engineering, General
14.05 Biomedical/Medical Engineering
14.07 Chemical Engineering
14.08 Civil Engineering
14.09 Computer Hardware and Software Engineering
14.10 Electrical, Electronics and Communications Engineering
14.14 Environmental Engineering
14.19 Mechanical Engineering
14.21 Mining and Mineral Engineering
14.25 Energy Engineering & Tech.
14.33 Construction Engineering
14.35 Industrial/Manufacturing Engineering
14.38 Surveying Engineering
14.39 Geological/Geophysical Engineering
All of GROUP (16)

GROUP (19)

19.09 Apparel and Textiles
All of GROUP (22)
All of GROUP (23)
All of GROUP (24)
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GROUP (26)

26.01 Biology
All of GROUP (27)
All of GROUP (38)
All of GROUP (39)

GROUP (40)

40.01 Physical Sciences
40.04 Atmospheric Sciences and Meteorology
40.05 Chemistry
40.08 Physics
All of GROUP (41)
All of GROUP (42)
All of GROUP (43)
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GROUP (49)

49.02 Ground Transportation
All of GROUP (50)
All of GROUP (51)
All of GROUP (52)
All of GROUP (54)

GROUP (60)

60.01 Dental Residency Programs
60.02 Medical Residency Programs

Paraguay

GROUP (01)

01.01 Agricultural Business and Management
01.09 Animal Sciences
01.10 Food Science
All of GROUP (03)
All of GROUP (05)

GROUP (09)

09.07 Radio, Television, and Digital Communication
09.09 Public Relations, Advertising, and Applied Communication
All of GROUP (11)
All of GROUP (13)

GROUP (14)

14.02 Aerospace, Aeronautical and Astronautical Engineering
14.05 Biomedical/Medical Engineering
14.07 Chemical Engineering
14.09 Computer Hardware and Software Engineering
14.18 Materials Engineering
14.21 Mining and Mineral Engineering
14.25 Energy Engineering & Tech.
14.35 Industrial/Manufacturing Engineering
14.39 Geological/Geophysical Engineering
All of GROUP (16)
All of GROUP (23)
All of GROUP (24)
All of GROUP (26)

GROUP (31)

31.01 Parks, Recreation and Leisure Studies
31.05 Health and Physical Education/Fitness
All of GROUP (38)
All of GROUP (39)

GROUP (40)

40.04 Atmospheric Sciences and Meteorology
All of GROUP (42)
All of GROUP (43)
All of GROUP (44)

GROUP (45)

45.02 Anthropology
45.03 Archeology
45.07 Geography and Cartography
45.09 International Relations and Affairs
45.10 Political Science and Government
45.11 Sociology
All of GROUP (46)
All of GROUP (49)
All of GROUP (50)

GROUP (51)

51.02 Communication Disorders Sciences & Services
51.04 Dentistry, Advanced/Graduate Dentistry, Oral Sciences, Dental Technology
51.06 Dental Support Services/Assistant
51.07 Health and Medical Administrative Services
51.08 Medical Support Services/Assistant
51.09 Allied Health Diagnostic, Intervention, and Treatment Professions
51.10 Clinical/Medical Laboratory Science and Allied Professions
51.12 Medicine, Medical Research, including all specialties and fields
51.15 Mental and Social Health Services
51.16 Nursing
51.19 Osteopathic Medicine/Osteopathy
51.20 Pharmacy
51.22 Public Health
51.23 Rehabilitation and Therapeutic Professions
51.24 Veterinary Medicine
51.25 Veterinary Biomedical and Clinical Sciences
51.27 Medical Illustration and Informatics & Medical Photography
51.31 Dietetics and Clinical Nutrition

GROUP (52)

52.02 Business Administration, Management and Operations
52.03 Accounting and Related Services
52.04 Business Operations Support and Assistant Services
52.06 Business/Managerial Economics
52.08 Finance, Banking and Financial Management Services
52.09 Hospitality Administration/Management
52.10 Human Resources Management and Services
52.11 International Business/Trade/Commerce
52.12 Management Information Systems and Services
52.13 Management Sciences and Quantitative Methods
52.20 Construction Management
All of GROUP (54)

GROUP (60)

60.02 Medical Residency Programs

60.03 Veterinary Residency Programs

Peru

All of GROUP (03)
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GROUP (60)

60.01 Dental Residency Programs
60.02 Medical Residency Programs

Philippines

All of GROUP (01)
All of GROUP (03)

GROUP (04)

04.03 City/Urban, Community and Regional Planning; Architectural Urban Design and Planning
All of GROUP (05)

GROUP (09)

09.01 Communication and Media Studies
09.09 Public Relations, Advertising, and Applied Communication
09.10 Publishing
All of GROUP (10)
All of GROUP (11)

GROUP (13)

13.02 Bilingual, Multilingual, and Multicultural
13.06 Educational Assessment, Evaluation, and Research
13.09 Social and Philosophical Foundations of Education
13.10 Special Education and Teaching
13.11 Student Counseling and Personnel Services
13.12 Teacher Education and Professional Development, Specific Levels and Methods
13.13 Teacher Education and Professional Development, Specific Subject Areas
All of GROUP (14)
All of GROUP (16)
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GROUP (44)

44.07 Social Work/Youth Services
All of GROUP (45)
All of GROUP (49)

GROUP (51)

51.01 Chiropractic
51.02 Communication Disorders Sciences & Services
51.04 Dentistry, Advanced/Graduate Dentistry, Oral Sciences, Dental Technology
51.06 Dental Support Services/ Assistant
51.07 Health and Medical Administrative Services
51.08 Medical Support Services/ Assistant
51.09 Allied Health Diagnostic, Intervention, and Treatment Professions
51.10 Clinical/Medical Laboratory Science and Allied Professions
51.12 Medicine, Medical Research, including all specialties and fields
51.15 Mental and Social Health Services
51.17 Optometry
51.19 Osteopathic Medicine/ Osteopathy
51.22 Public Health
51.23 Rehabilitation and Therapeutic Professions
51.24 Veterinary Medicine
51.25 Veterinary Biomedical and Clinical Sciences
51.27 Medical Illustration and Informatics & Medical Photography
51.31 Dietetics and Clinical Nutrition
51.33 Alternative Medicine

GROUP (52)

52.04 Business Operations Support and Assistant Services
52.06 Business/Managerial Economics
52.10 Human Resources Management and Services
52.11 International Business/Trade/ Commerce
52.13 Management Sciences and Quantitative Methods
52.14 Marketing/Marketing Management
52.17 Insurance
52.20 Construction Management
All of GROUP (54)
All of GROUP (60)

Romania

All of GROUP (01)
All of GROUP (03)
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GROUP (31)

31.01 Parks, Recreation and Leisure Studies
31.05 Health and Physical Education/ Fitness
All of GROUP (38)
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Rwanda

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Saudi Arabia

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All of GROUP (03)
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All of GROUP (13)

GROUP (14)

14.01 Engineering, General
14.02 Aerospace, Aeronautical and Astronautical Engineering
14.03 Agricultural/Biological Engineering and Bioengineering
14.05 Biomedical/Medical Engineering
14.07 Chemical Engineering
14.09 Computer Hardware and Software Engineering
14.10 Electrical, Electronics and Communications Engineering
14.19 Mechanical Engineering
14.21 Mining and Mineral Engineering
14.25 Energy Engineering & Tech.
14.33 Construction Engineering
14.35 Industrial/Manufacturing Engineering
14.38 Surveying Engineering
14.39 Geological/Geophysical Engineering
All of GROUP (22)
All of GROUP (23)

GROUP (26)

26.01 Biology
26.04 Anatomical Sciences
26.05 Microbiological Sciences and Immunology
26.08 Genetics
All of GROUP (41)
All of GROUP (43)

GROUP (44)

44.04 Public Administration
All of GROUP (45)
All of GROUP (46)
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All of GROUP (49)
All of GROUP (51)

GROUP (52)

52.02 Business Administration, Management and Operations
52.03 Accounting and Related Services
52.04 Business Operations Support and Assistant Services
52.06 Business/Managerial Economics
52.08 Finance, Banking and Financial Management Services
52.10 Human Resources Management and Services
52.11 International Business/Trade/Commerce
52.12 Management Information Systems and Services
52.13 Management Sciences and Quantitative Methods
52.14 Marketing/Marketing Management
52.20 Construction Management

GROUP (60)

60.01 Dental Residency Programs
60.02 Medical Residency Programs

Senegal

All of GROUP (01)
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All of GROUP (60)

South Africa

GROUP (01)

01.10 Food Science
01.11 Plant Sciences
01.12 Soil Science and Agronomy

GROUP (03)

03.02 Natural Resources Management and Policy
All of GROUP (04)

GROUP (09)

09.01 Communication and Media Studies
09.04 Journalism
09.07 Radio, Television, and Digital Communication

GROUP (10)

10.01 Communications Technology/Technicians
10.02 Audiovisual Communications Technologies/Technicians

GROUP (11)

11.01 Computer and Information Sciences, General
11.02 Computer Programming
11.05 Computer Systems Analysis
11.07 Computer Science
11.10 Computer/Information Technology Administration and Management

GROUP (13)

13.01 Education, General
13.02 Bilingual, Multilingual, and Multicultural

GROUP (14)

14.01 Engineering, General
14.02 Aerospace, Aeronautical and Astronautical Engineering
14.03 Agricultural/Biological Engineering and Bioengineering
14.05 Biomedical/Medical Engineering
14.07 Chemical Engineering
14.08 Civil Engineering
14.10 Electrical, Electronics and Communications Engineering
14.14 Environmental Engineering
14.19 Mechanical Engineering
14.20 Metallurgical Engineering
14.21 Mining and Mineral Engineering
14.22 Naval Architecture and Marine Engineering
14.23 Nuclear Engineering
14.33 Construction Engineering
14.35 Industrial/Manufacturing Engineering
14.38 Surveying Engineering
14.39 Geological/Geophysical Engineering
All of GROUP (22)

GROUP (26)

26.01 Biology
26.03 Botany/Plant Biology
26.05 Microbiological Sciences and Immunology
26.07 Zoology/Animal Biology
All of GROUP (27)

GROUP (40)

40.01 Physical Sciences
40.02 Astronomy; Astrophysics; Planetary Astronomy and Science; and Space Technology
40.05 Chemistry
40.06 Geological and Earth Sciences/Geosciences
40.08 Physics
All of GROUP (43)

GROUP (44)

44.04 Public Administration
All of GROUP (46)
All of GROUP (47)
All of GROUP (48)
All of GROUP (49)

GROUP (51)

51.07 Health and Medical Administrative Services
51.08 Medical Support Services/Assistant
51.09 Allied Health Diagnostic, Intervention, and Treatment Professions
51.10 Clinical/Medical Laboratory Science and Allied Professions
51.12 Medicine, Medical Research, including all specialties and fields
51.16 Nursing
51.20 Pharmacy
51.22 Public Health
51.23 Rehabilitation and Therapeutic Professions

South Korea

All of GROUP (14)
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Sri Lanka

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All of GROUP (60)

Swaziland

All of GROUP (01)
All of GROUP (03)
All of GROUP (04)

GROUP (09)

09.01 Communication and Media Studies
09.04 Journalism—
09.07 Radio, Television, and Digital Communication
09.09 Public Relations, Advertising, and Applied Communication
All of GROUP (10)
All of GROUP (11)
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All of GROUP (14)

GROUP (19)

19.09 Apparel and Textiles
All of GROUP (22)
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GROUP (49)

49.01 Air Transportation
49.02 Ground Transportation

GROUP (50)

50.04 Design and Applied Arts
All of GROUP (51)
All of GROUP (52)
All of GROUP (60)

Tajikistan

All of GROUP (01)
All of GROUP (04)
All of GROUP (10)
All of GROUP (11)
All of GROUP (14)

Tanzania

All of GROUP (01)
All of GROUP (03)

GROUP (04)

04.02 Architecture

GROUP (09)

09.01 Communication and Media Studies
09.04 Journalism—
All of GROUP (11)
All of GROUP (13)
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GROUP (31)

31.01 Parks, Recreation and Leisure Studies
All of GROUP (40)
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GROUP (52)

52.02 Business Administration, Management and Operations
52.03 Accounting and Related Services
52.08 Finance, Banking and Financial Management Services
52.09 Hospitality Administration/Management
52.10 Human Resources Management and Services
52.11 International Business/Trade/Commerce
52.20 Construction Management
All of GROUP (60)

Thailand

All of GROUP (01)
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Togo

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GROUP (12)

12.05 Cooking, Culinary Arts and Related Services
All of GROUP (13)
All of GROUP (14)
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Tonga

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All of GROUP (60)

Trinidad and Tobago

All of GROUP (01)

GROUP (03)

03.01 Natural Resources Conservation and Research & Environmental/Wildlife/Wildlands Science/Studies
03.02 Natural Resources Management and Policy
All of GROUP (04)
All of GROUP (05)
All of GROUP (09)
All of GROUP (10)
All of GROUP (11)

GROUP (13)

13.03 Curriculum and Instruction
13.06 Educational Assessment, Evaluation, and Research
13.09 Social and Philosophical Foundations of Education
13.10 Special Education and Teaching
13.11 Student Counseling and Personnel Services

GROUP (14)

14.02 Aerospace, Aeronautical and Astronautical Engineering
14.03 Agricultural/Biological Engineering and Bioengineering
14.05 Biomedical/Medical Engineering
14.14 Environmental Engineering
14.18 Materials Engineering
14.20 Metallurgical Engineering
14.21 Mining and Mineral Engineering
14.22 Naval Architecture and Marine Engineering
14.23 Nuclear Engineering
14.24 Ocean Engineering
All of GROUP (19)
All of GROUP (22)
All of GROUP (25)

GROUP (26)

26.05 Microbiological Sciences and Immunology
26.08 Genetics
26.11 Biomathematics and Bioinformatics
26.12 Biotechnology
26.13 Ecology, Population Biology
All of GROUP (27)

GROUP (31)

31.01 Parks, Recreation and Leisure Studies

GROUP (40)

40.04 Atmospheric Sciences and Meteorology
40.06 Geological and Earth Sciences/Geosciences
All of GROUP (43)
All of GROUP (45)
All of GROUP (49)
All of GROUP (50)
All of GROUP (51)

GROUP (52)

52.11 International Business/Trade/Commerce
52.15 Real Estate
52.16 Taxation
52.17 Insurance
All of GROUP (60)

Turkey

All of GROUP (01)
All of GROUP (03)
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GROUP (31)

31.01 Parks, Recreation and Leisure Studies
31.05 Health and Physical Education/Fitness
All of GROUP (38)
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All of GROUP (60)

United Arab Emirates

GROUP (01)

01.00 Agriculture, General
01.01 Agricultural Business and Management
01.09 Animal Sciences
01.10 Food Science
01.12 Soil Science and Agronomy

GROUP (03)

03.03 Fishing and Fisheries Sciences and Management

GROUP (04)

04.02 Architecture

GROUP (09)

09.01 Communication and Media Studies
09.04 Journalism—
09.07 Radio, Television, and Digital Communication
All of GROUP (10)

GROUP (11)

11.01 Computer and Information Sciences, General
11.02 Computer Programming

11.03 Data Processing
11.04 Information Science/Studies
11.07 Computer Science

GROUP (13)

13.01 Education, General
13.06 Educational Assessment, Evaluation, and Research
13.10 Special Education and Teaching
13.11 Student Counseling and Personnel Services
13.12 Teacher Education and Professional Development, Specific Levels and Methods
13.13 Teacher Education and Professional Development, Specific Subject Areas

GROUP (14)

14.01 Engineering, General
14.02 Aerospace, Aeronautical and Astronautical Engineering
14.05 Biomedical/Medical Engineering
14.07 Chemical Engineering
14.08 Civil Engineering
14.09 Computer Hardware and Software Engineering
14.10 Electrical, Electronics and Communications Engineering
14.14 Environmental Engineering
14.18 Materials Engineering
14.19 Mechanical Engineering
14.22 Naval Architecture and Marine Engineering
14.24 Ocean Engineering
14.25 Energy Engineering & Tech.
14.33 Construction Engineering
14.35 Industrial/Manufacturing Engineering
14.38 Surveying Engineering
All of GROUP (16)
All of GROUP (22)
All of GROUP (24)
All of GROUP (25)

GROUP (26)

26.01 Biology
26.03 Botany/Plant Biology
26.07 Zoology/Animal Biology
26.08 Genetics
26.12 Biotechnology
26.13 Ecology, Population Biology
All of GROUP (27)

GROUP (31)

31.01 Parks, Recreation and Leisure Studies
31.05 Health and Physical Education/Fitness
All of GROUP (38)

GROUP (40)

40.01 Physical Sciences
40.02 Astronomy; Astrophysics; Planetary Astronomy and Science; and Space Technology
40.05 Chemistry
40.06 Geological and Earth Sciences/Geosciences
40.08 Physics
All of GROUP (41)
All of GROUP (42)
All of GROUP (43)
All of GROUP (44)
All of GROUP (45)
All of GROUP (48)
All of GROUP (49)

GROUP (50)

50.01 Visual and Performing Arts

GROUP (51)

51.01 Chiropractic
51.04 Dentistry, Advanced/Graduate Dentistry, Oral Sciences, Dental Technology
51.06 Dental Support Services/Assistant
51.07 Health and Medical Administrative Services
51.10 Clinical/Medical Laboratory Science and Allied Professions
51.12 Medicine, Medical Research, including all specialties and fields
51.16 Nursing
51.17 Optometry
51.19 Osteopathic Medicine/Osteopathy
51.20 Pharmacy
51.22 Public Health
51.23 Rehabilitation and Therapeutic Professions
51.24 Veterinary Medicine
51.25 Veterinary Biomedical and Clinical Sciences
51.27 Medical Illustration and Informatics & Medical Photography

GROUP (52)

52.02 Business Administration, Management and Operations
52.03 Accounting and Related Services
52.08 Finance, Banking and Financial Management Services
52.09 Hospitality Administration/Management
52.10 Human Resources Management and Services
52.11 International Business/Trade/Commerce
52.12 Management Information Systems and Services
52.13 Management Sciences and Quantitative Methods
52.20 Construction Management
All of GROUP (54)
All of GROUP (60)

Uruguay

GROUP (01)

01.00 Agriculture, General
01.09 Animal Sciences
01.10 Food Science
01.12 Soil Science and Agronomy

GROUP (03)

03.01 Natural Resources Conservation and Research & Environmental/Wildlife/Wildlands Science/Studies
03.03 Fishing and Fisheries Sciences and Management

GROUP (09)

09.01 Communication and Media Studies
09.04 Journalism

GROUP (10)

10.01 Communications Technology/Technicians

GROUP (11)

11.01 Computer and Information Sciences, General
11.02 Computer Programming
11.03 Data Processing
11.04 Information Science/Studies
11.05 Computer Systems Analysis
11.07 Computer Science

GROUP (13)

13.06 Educational Assessment, Evaluation, and Research
13.10 Special Education and Teaching
13.13 Teacher Education and Professional Development, Specific Subject Areas

GROUP (14)

14.02 Aerospace, Aeronautical and Astronautical Engineering
14.05 Biomedical/Medical Engineering
14.07 Chemical Engineering
14.09 Computer Hardware and Software Engineering
14.10 Electrical, Electronics and Communications Engineering
14.14 Environmental Engineering
14.18 Materials Engineering
14.22 Naval Architecture and Marine Engineering
14.25 Energy Engineering & Tech.
14.35 Industrial/Manufacturing Engineering
All of GROUP (16)

GROUP (26)

26.07 Zoology/Animal Biology
26.08 Genetics
26.13 Ecology, Population Biology

GROUP (31)

31.01 Parks, Recreation and Leisure Studies
31.05 Health and Physical Education/Fitness
All of GROUP (38)

GROUP (40)

40.02 Astronomy; Astrophysics; Planetary Astronomy and Science; and Space Technology
40.04 Atmospheric Sciences and Meteorology
All of GROUP (43)
All of GROUP (44)

GROUP (45)

45.02 Anthropology

45.03 Archeology
45.05 Demography and Population Studies
45.06 Economics
45.07 Geography and Cartography
45.10 Political Science and Government
All of GROUP (46)

GROUP (49)

49.01 Air Transportation
49.03 Marine Transportation

GROUP (51)

51.07 Health and Medical Administrative Services
51.09 Allied Health Diagnostic, Intervention, and Treatment Professions
51.10 Clinical/Medical Laboratory Science and Allied Professions
51.12 Medicine, Medical Research, including all specialties and fields
51.22 Public Health
51.24 Veterinary Medicine
51.25 Veterinary Biomedical and Clinical Sciences
51.27 Medical Illustration and Informatics & Medical Photography

GROUP (52)

52.02 Business Administration, Management and Operations
52.03 Accounting and Related Services
52.04 Business Operations Support and Assistant Services
52.08 Finance, Banking and Financial Management Services
52.11 International Business/Trade/Commerce
All of GROUP (54)

Venezuela

All of GROUP (01)
All of GROUP (03)

GROUP (04)

04.03 City/Urban, Community and Regional Planning; Architectural Urban Design and Planning
All of GROUP (05)

GROUP (09)

09.01 Communication and Media Studies
09.07 Radio, Television, and Digital Communication
All of GROUP (10)
All of GROUP (11)
All of GROUP (13)
All of GROUP (14)
All of GROUP (16)

GROUP (19)

19.01 Family and Consumer Sciences/Human Sciences, General
19.05 Foods, Nutrition, and Related Services
All of GROUP (23)
All of GROUP (24)
All of GROUP (25)
All of GROUP (26)
All of GROUP (27)

GROUP (31)

31.01 Parks, Recreation and Leisure Studies
31.05 Health and Physical Education/Fitness
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Zambia

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Dated: April 14, 2009.

Janice L. Jacobs,

Assistant Secretary for Consular Affairs, Department of State.

[FR Doc. E9–9657 Filed 4–29–09; 8:45 am]

BILLING CODE 4710–06–P

Federal Register

Thursday,
April 30, 2009

Part III

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 622

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 29; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 090206140–9191–01]

RIN 0648–AX39

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 29

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement Amendment 29 to the Fishery Management Plan for Reef Fish Resources of the Gulf of Mexico (FMP), as prepared and submitted by the Gulf of Mexico Fishery Management Council (Council). This proposed rule would implement a multi-species individual fishing quota (IFQ) program for the grouper and tilefish component of the commercial sector of the reef fish fishery in the Gulf of Mexico exclusive economic zone (Gulf EEZ). In addition, the proposed rule would allow permit consolidation and dual classifications to the shallow water and deepwater management units for speckled hind and warsaw grouper and would modify some provisions of the Gulf red snapper IFQ program for consistency with this proposed rule. The proposed rule is intended to reduce effort in the grouper and tilefish component of the Gulf reef fish fishery.

DATES: Written comments on this proposed rule must be received no later than 5:00 p.m., eastern time, on June 15, 2009.

ADDRESSES: You may submit comments, identified by RIN 0648–AX39, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov*
- Mail: Susan Gerhart, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701

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.

To submit comments through the Federal e-Rulemaking Portal: *http://www.regulations.gov*, enter ''NOAA–NMFS–2008–0223'' in the keyword search, then select ''Send a Comment or Submission.'' NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of Amendment 29, which includes a draft environmental impact statement (DEIS), an initial regulatory flexibility analysis (IRFA), and a regulatory impact review (RIR) may be obtained from the Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607; telephone 813–348–1630; fax 813–348–1711; e-mail *gulfcouncil@gulfcouncil.org*; or may be downloaded from the Council's website at *http://www.gulfcouncil.org/*.

Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted in writing to Jason Rueter, Southeast Regional Office, NMFS, and to David Rostker, OMB, by e-mail at *David_Rostker@omb.eop.gov*, or by fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, telephone: 727–824–5305, fax: 727–824–5308.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

Current regulatory measures used to manage the commercial grouper and tilefish component of the reef fish fishery in the Gulf EEZ include a license limitation system, quotas, trip limits, minimum size limits, area and gear restrictions, and seasonal closures. Nonetheless, the commercial grouper and tilefish component has become overcapitalized, which has resulted in increasingly restrictive commercial regulations. One result of these restrictions is intensifying derby conditions, under which fishermen race to harvest as many fish as possible before the quota is reached. The intensification of derby conditions has led, in recent years, to early-season closures of the fisheries. Under the current management structure, the commercial grouper and tilefish component is expected to continue to have higher than necessary levels of capital investment, increased operating costs, increased likelihood of shortened seasons, reduced safety at-sea, wide fluctuations in grouper and tilefish supply, and depressed ex-vessel prices.

Permit Consolidation

Permit consolidation would allow the owner of multiple Gulf of Mexico reef fish commercial vessel permits to consolidate some or all of such permits into one. The consolidated permit would have a catch history equal to the sum of the catch histories associated with the individual permits; the other permits involved in the consolidation would be permanently eliminated. The permits to be consolidated would have to be valid and not expired, and would have to be issued under the same name. This action could contribute to a faster reduction in the number of permits and ease permit renewal requirements. Fishermen would benefit by having to maintain and pay for fewer permits while still retaining their total landings history.

Establishment of an IFQ Program for Groupers and Tilefishes

The Council chose a multi-species IFQ program for all groupers, except Goliath grouper and Nassau grouper, and all tilefish species managed in the Gulf EEZ as the preferred alternative for effort management. The Magnuson-Stevens Act stipulates the Council may not submit, and the Secretary of Commerce may not approve, an IFQ program that has not first been approved by a majority of voters in a referendum. To be eligible to vote in the Gulf of Mexico grouper and tilefish IFQ referendum, an individual needed to possess an active or renewable Gulf reef fish vessel permit with combined average annual grouper and tilefish landings of at least 8,000 lb (3,629 kg) during 1999–2004 (with the allowance of dropping one year). Referendum ballots were mailed on December 5, 2008, to 301 eligible voters. Ballots were due to NOAA Fisheries Service by 4:30 p.m. on January 5, 2009. A total of 274 ballots were returned with a vote of 220 to 50 in favor of the IFQ program (four returned ballots were declared invalid).

To implement an IFQ program, several design features would need to be specified. This proposed rule contains many of these design elements, as well as major requirements for limited access privilege programs listed in the Magnuson-Stevens Act.

Scope and Duration of the IFQ program

The provisions of the IFQ program would apply to Gulf grouper and tilefish species in or from the Gulf EEZ and for a fisher or dealer in the IFQ program, these provisions would apply to Gulf groupers and tilefishes regardless of where harvested or possessed. The species include deepwater groupers (DWG), i.e., yellowedge grouper, misty grouper, warsaw grouper, snowy grouper, speckled hind, plus scamp under certain circumstances; red grouper, gag, and other shallow water groupers (other SWG) including black grouper, scamp, yellowfin grouper, rock hind, red hind, yellowmouth grouper, plus warsaw grouper and speckled hind under certain circumstances; and tilefishes (goldface tilefish, blackline tilefish, anchor tilefish, blueline tilefish, and tilefish).

The IFQ program would remain in effect until it is modified or terminated by an FMP amendment; however, the Council would evaluate the program every 5 years.

IFQ Shares and Allocation

An IFQ share is the percentage of the commercial quota or allowance for a species or species group issued to each eligible participant based on landings data. The five share categories are DWG, gag, red grouper, other SWG, and tilefish. Allocation is the actual poundage (gutted weight) in each share category that an IFQ shareholder is given the opportunity to land during each fishing year. The allocation issued to each IFQ shareholder would be calculated by multiplying their share times the annual commercial quota or allowance for each category. Annual allocation expires at the end of each year.

Multi-use Allocation

At the beginning of each fishing year, 4 percent of each participant's initial red grouper shares and 8 percent of each participant's initial gag shares would be converted to multi-use allocation. Multi-use allocation could be used to possess, land, or sell red groupers and gag under certain conditions. Red grouper multi-use allocation could only be used for red groupers after an IFQ account holder's entire red grouper allocation has been landed and sold, or transferred, and could be used for gag only after both gag and gag multi-use allocation have been landed and sold, or transferred. Gag multi-use allocation could only be used for gag after an IFQ account holder's entire gag allocation has been landed and sold, or transferred, and could be used for red groupers only after both red grouper and red grouper multi-use allocation have been landed and sold, or transferred.

Warsaw Grouper, Speckled Hind, and Scamp Classification

Warsaw grouper and speckled hind are currently considered DWG species. Amendment 29 proposes also including these species as SWG under certain circumstances. For the purposes of the grouper and tilefish IFQ program, once an IFQ account holder's DWG allocation has been landed and sold, or transferred, or if an IFQ account holder has no DWG allocation, then other SWG allocation could be used to land and sell warsaw grouper and speckled hind.

Scamp is considered a SWG species and a DWG under certain circumstances. For the purposes of the grouper and tilefish IFQ program, once an IFQ account holder's other SWG allocation has been landed and sold, or transferred, or if an IFQ account holder has no SWG allocation, then DWG allocation could be used to land and sell scamp.

Initial IFQ Share Eligibility and Share Calculation

To be eligible to receive initial IFQ shares, a person would need to possess a valid (active or renewable) Gulf reef fish commercial vessel permit as of October 1, 2009. The calculation of initial shares by the RA would be based on the highest average annual landings associated with each permit during the best 5 out of 6 years for each share category, during the applicable landings period, 1999 through 2004. If a participant wishes to exclude a different year of landings history than was chosen by the RA, the participant would submit that information to the RA postmarked no later than December 1, 2009.

All landings associated with a valid Gulf reef fish commercial vessel permit for the applicable landings period would be attributed to the current owner, including landings reported by a person who held the permit prior to the current owner. Only legal landings reported in compliance with applicable state and Federal regulations would be accepted. Each participant's initial share in each category would be calculated by dividing his/her highest average annual landings by the sum of the highest average annual landings of all participants during the applicable landings period. Initial shares distributed in the gag and other SWG share categories would be based on landings that have been adjusted for gag and black grouper misidentification. Initial shares in each share category would not be issued in units less than the percentage equivalent to 1 lb (.45 kg) of the grouper or tilefish species, based on that share category's quota or allowance.

Appeals Process

The only items subject to appeal under this IFQ program would be initial eligibility for shares based on ownership of a reef fish commercial vessel permit, the accuracy of the amount of landings, correct assignment of landings to the permit owner, and correct assignment of gag versus black grouper landings. Appeals would have to be submitted to the RA postmarked no later than April 1, 2010, and would have to contain documentation supporting the appeal. The RA would review, evaluate, and render final decisions on appeals. Hardship arguments would not be considered.

Appeals regarding landings data for 1999 through 2004 would be based on NMFS' logbook records. If NMFS' logbooks were not available, the RA could use state landings records or data that were submitted in compliance with applicable Federal and state regulations, on or before December 31, 2006. This date was chosen because it is 2 years after the end of the qualifying period for the IFQ program, and 2 years is the maximum amount of time from purchase or renewal of a permit until further action must be taken to prevent termination of the permit. Prior to initial distribution of shares, the RA would reserve 3–percent of IFQ shares to be used to resolve appeals. Any portion of the 3–percent share reserve remaining after the appeals process was completed would be proportionately distributed back to the initial recipients as soon as possible that year. If resolution of appeals requires more than 3–percent of shares, the shares of all initial IFQ shareholders would be reduced proportionately to accommodate the required shares in excess of the reserve.

Adjustments in Commercial Quota and Allocation

The Council periodically adjusts commercial quotas when they change the total allowable catch or the sector allocation in response to new data and information. If quotas are adjusted, then adjustments in IFQ allocation would be based on the percentage of the quota each IFQ shareholder possessed at the time of the adjustment.

Redistribution of Shares Resulting from Permit Revocation

If an IFQ shareholder's reef fish commercial vessel permit has been permanently revoked, at the beginning

of the next fishing year the RA would redistribute the shares held by that shareholder proportionately among remaining shareholders based upon the amount of shares each held just prior to the redistribution. Shares would not be distributed in such a way as to violate any share cap.

Annual Recalculation and Notification of IFQ Shares and Allocation

On or about January 1 each year, IFQ shareholders would be notified, via the IFQ website, of their shares and allocation for the new fishing year. The share values would be updated to include any share transfers and redistribution of shares. Allocation amounts would reflect any change in IFQ shares, any change in the annual commercial quota or allowance, and any debits incurred as a result of overages during the previous fishing year (see below).

Electronic System Requirements, Account Setup, and Information

The administrative functions associated with this IFQ program, such as account setup, landing transactions, and transfers, are designed to be accomplished online; therefore, all participants would need access to a computer and the Internet to participate. Assistance with online functions would be available from IFQ Customer Service, 1–866–425–7627, Monday through Friday between 8 a.m. and 4:30 p.m. eastern time.On or about October 1, 2009, the RA would mail an information package to eligible IFQ participants. The package would include historical landings, initial shares and allocation, information for accessing the online IFQ system and establishing an online account, and general instructions related to online transaction procedures and requirements. Anyone who is eligible to participate in the IFQ program, but who does not receive initial shares, may contact IFQ Customer Service to obtain information necessary to set up the required IFQ online account.

IFQ Vessel Accounts

An IFQ vessel account would be required for a person aboard a vessel to land grouper or tilefish species. Before a landing notification for the vessel was submitted, the vessel account associated with that vessel would need to have enough allocation in the appropriate share categories for the fish on board. A person who has established an IFQ account online would establish a vessel account through that IFQ account for each vessel. Each vessel account would have a unique personal identification number (PIN) to be used during landing transactions. Only one vessel account could be established per vessel, but multiple vessel accounts could be established under each IFQ account. No fee would be charged to set-up a vessel account. The vessel account would remain valid as long as the vessel permit remained valid and the vessel owner was in compliance with all Gulf reef fish and IFQ reporting requirements, had paid all IFQ fees, and was not subject to sanctions. The vessel account could not be transferred to another vessel.

Vessel accounts could only hold allocation for use in landing and selling IFQ species. Vessel accounts could not hold shares. Allocation could be transferred into a vessel account from any IFQ account; however, allocation could only be transferred out of a vessel account to the IFQ account under which it was established. This restriction is intended to ensure that an IFQ account holder maintains control of the allocation in his/her account.

IFQ Share/Allocation Transferability

During the first 5 years of the IFQ program, shares or allocation could only be transferred to a person with a valid Gulf reef fish commercial vessel permit. After 5 years, shares and allocation could be transferred to any U.S. citizen or permanent resident alien. However, a valid reef fish commercial vessel permit would still be required to fish for Gulf groupers and tilefishes under the IFQ program.

Both share and allocation transfers would be accomplished online via the IFQ website. The online system would verify the information entered and, if the information was not accepted, the online system would send an electronic message explaining the reason(s). Once the transaction is complete, the online system would send a transfer approval code to both the transferor and transferee confirming the transaction. An IFQ shareholder who is subject to a sanction would be prohibited from initiating a share transfer. If a transferor is subject to a pending sanction, he/she would be required to disclose in writing any pending sanction at the time of the transfer of shares or allocation. No transfers would be allowed that violate the share or allocation caps.

For share transfers, approval would be required from both the transferor and transferee. If the information from the transferor was accepted, the online system would send an electronic message of the pending transfer to the transferee. The transferee would approve the share transfer by electronic signature. If the transferee approved the share transfer, the online system would send a transfer approval code to both the transferor and transferee confirming the transaction. The minimum share amount that could be transferred would be 0.000001 percent.

Transfer of shares and associated allocation are independent; to transfer both shares and allocation, the transferor must complete both a share transfer and an allocation transfer. At the beginning of the year after a share transfer, allocation would automatically be issued to the current shareholder. Share transfers would be permanent, and would remain in effect until subsequently transferred. Allocation transfers would be valid only for the remainder of the current fishing year; allocation transfers would not carry over to the next fishing year.

Red grouper multi-use allocation could only be transferred after all of an IFQ account holder's red grouper allocation had been landed and sold, or transferred. Gag multi-use allocation could only be transferred after all an IFQ account holder's gag allocation had been landed and sold, or transferred.

All electronic IFQ transactions would have to be completed by December 31 at 6 p.m. eastern time each year. Electronic functions would resume on January 1 at 6 a.m. eastern time the following fishing year.

IFQ Share and Allocation Caps

The Magnuson-Stevens Act requires an IFQ program to prevent any entity from obtaining an excessive share of the total limited access privileges in the program. To accomplish this, both share and allocation caps would be established. No person, including a corporation or other entity, could individually or collectively hold IFQ shares in any share category greater than the maximum share initially issued to a person at the beginning of the IFQ program, as of the date appeals are resolved and shares are adjusted accordingly. Further, no person could individually or collectively hold, cumulatively during any fishing year, allocation in excess of the total allocation cap. The total allocation cap would be the sum of the allocations associated with the share caps for each share category. The allocation cap would be calculated annually based on the current quota or allowance associated with each share category.

An individual's total IFQ shares/allocation would be determined by adding the IFQ shares/allocation held independently by the individual and the applicable IFQ shares/allocation from any corporation in which the individual has ownership. Those applicable

corporate IFQ shares/allocation would be calculated by multiplying the IFQ shares/allocation owned by the corporation times the percent of ownership the individual has in the corporation. During initial implementation of the IFQ program, a corporation would provide the identity of the shareholders of the corporation and their percent of ownership in the corporation to NMFS. This information would be updated within 30 days of when changes occur. This information would also be required any time a reef fish vessel permit is renewed or transferred.

Dealer Requirements

On or about October 1, 2009, the RA would mail information pertinent to the IFQ program to each dealer with a valid Gulf reef fish dealer permit. A dealer, or a person aboard a vessel with an IFQ account wishing to sell groupers and tilefishes directly to an entity other than a dealer, would need an IFQ dealer endorsement to receive groupers and tilefishes from the Gulf EEZ. An IFQ dealer endorsement could be downloaded from the NMFS IFQ website. If a dealer did not have an IFQ online account, they could contact IFQ Customer Service. No fee would be charged for obtaining this endorsement. The endorsement would remain valid as long as the reef fish dealer permit remained valid and the dealer was in compliance with all Gulf reef fish and IFQ reporting requirements, had paid all IFQ fees, and was not subject to any sanctions. The endorsement could not be transferred.

Electronic Reporting of IFQ Landing Transactions

The dealer would be responsible for completing a landing transaction report for each landing and sale of groupers and tilefishes through his/her IFQ account. The landing transaction would be completed at the time of sale. The fisherman would validate the dealer transaction report by entering the unique PIN for the vessel account when the transaction report was submitted. After the dealer submitted the report and NMFS verified the information, the online system would send a transaction approval code to the dealer and the allocation holder. This approval code would be necessary to verify the transaction was legal and the vessel account had the correct amount of grouper and tilefish allocation. The dealer endorsement would have to accompany any fish from the landing location through possession by a dealer. Fish could not be transported on land by any means without a transaction approval code and a copy of the dealer endorsement.

If a discrepancy regarding the landing transaction report was discovered after approval, the dealer or vessel account holder (or his or her authorized agent) could initiate a landing transaction correction form to correct the landing transaction. This form would be available via the IFQ website. Both parties would validate the landing correction form by entering their respective PINs. The dealer would then print out the form, both parties would sign it, and the form would be mailed to NMFS. The form would need to be received by NMFS no later than 15 days after the date of the initial landing transaction.

Limited Landings Overage Allowance

A person on board a vessel with an IFQ vessel account landing the IFQ shareholder's only remaining allocation could legally exceed, by up to 10 percent, the amount of the allocation remaining on that last fishing trip. Under current interpretation of the Council's intent, allocation from all share categories must be exhausted to use the overage, and the overage would be allowed only one time per fishing year for each shareholder. Another interpretation of the Council's intent would be to allow the use of the 10 percent overage once per year for each category. In that case, a person on board a vessel with an IFQ vessel account landing the IFQ shareholder's only remaining allocation in a share category could legally exceed, by up to 10 percent, the amount of the allocation remaining in that share category on that fishing trip. The Council will be asked to clarify their intention on this issue at their April 2009 meeting. NMFS is specifically seeking comment from the public on which approach best serves the objectives of the overage provision.

If additional allocation is purchased after a shareholder uses his overage privilege, no additional overage would be allowed. Overages would be deducted from the next year's allocation associated with the shareholder's IFQ share. Share transfers would not be allowed that would reduce the shareholder's IFQ shares lower than the amount needed to pay back the overage. A person who only possessed allocation and no IFQ shares would not be allowed an overage. That person might not receive allocation in the following year and therefore, could not pay back the overage.

Cost Recovery

The Magnuson-Stevens Act requires the Secretary of Commerce to establish a fee to assist in recovering the actual costs directly related to managing and enforcing an IFQ program. This fee may not exceed 3 percent of the ex-vessel value of fish harvested under the IFQ program. Cost recovery fees must be in addition to any other fees charged under the Magnuson-Stevens Act and must be deposited in the Limited Access System Administration Fund. Initially, the fee for the Gulf of Mexico grouper and tilefish IFQ would be 3 percent of the actual ex-vessel value of groupers and tilefishes landed under the IFQ program as documented in each landings transaction report. NMFS is currently analyzing the expected costs for the first year to determine if the 3–percent fee is appropriate. The RA would review the cost recovery fee annually to determine if an adjustment is warranted. If the RA determined that a fee adjustment is warranted, the RA would publish a notification of the fee adjustment in the **Federal Register**.

The participant whose allocation is used for a grouper or tilefish landing would be responsible for paying the associated IFQ cost recovery fees. The IFQ dealer who receives the fish would be responsible for collecting the fee from the participant and submitting the fee to NMFS using pay.gov via the IFQ system. The fee would be due at the end of each calendar-year quarter, but no later than 30 days after the end of each calendar-year quarter. Authorized payment methods would be credit card, debit card, or automated clearing house (ACH), or by check if the RA has determined that the geographical area or individual(s) is affected by catastrophic conditions. Fees not received by the deadline would be considered delinquent. Failure to resolve payment of delinquent fees could result in suspension of the IFQ endorsement which would prevent a dealer from completing any IFQ landing transactions. Continued failure to resolve payment could result in submission of the matter to appropriate authorities for resolution.

Measures to Enhance Enforceability

Fishermen participating in the IFQ program would be required to offload their grouper and tilefish landings to permitted IFQ dealers only between 6 a.m. and 6 p.m., local time. For the purpose of this program, landing means to arrive at a dock, berth, beach, seawall, or ramp. Any person landing groupers or tilefishes would be required to notify NMFS 3 to 12 hours in advance of landing. The landing notification would include the time and location of landing, the name and address of the dealer where the fish would be received,

the vessel identification number (Coast Guard registration number or state registration number), and the estimated pounds (gutted weight) of fish to be landed in each share category. The fisherman could supply this notification by calling NMFS at 1–866–425–7627, by completing and submitting the notification form provided through the VMS unit, or by accessing the web-based form available on the IFQ website. The vessel account associated with the vessel landing groupers or tilefishes must have sufficient allocation in the appropriate share category or categories (except for any overage allowed on the last fishing trip) from the time of the landing notification through landing.

Possession of IFQ groupers or tilefishes from the time of transfer from a vessel through possession by a dealer would be prohibited unless accompanied by a transaction approval code verifying a legal transaction of the amount of IFQ groupers or tilefishes in possession and a copy of the dealer endorsement. This requirement also applies to IFQ fish possessed on a vessel that is trailered for transport to a dealer. If groupers or tilefishes are offloaded to a vehicle for transportation to a dealer or are on a vessel that is trailered for transport to a dealer, on-site capability to accurately weigh the fish and to connect electronically to the online IFQ system to complete the transaction and obtain the transaction approval code would be required. At-sea or dockside vessel-to-vessel transfers of fish would be prohibited.

Approved Landing Locations

NMFS' Office for Law Enforcement would have to approve landing locations prior to landing or offloading groupers and tilefishes at these sites. Proposed landing locations could be submitted online via the IFQ website or by calling IFQ Customer Service at any time. However, new landing locations would be approved only at the end of each calendar-year quarter. To have a landing location approved by the end of the calendar-year quarter, it would have to be submitted at least 45 days before the end of the calendar-year quarter. Landing locations would have to be publicly accessible by land and water, and they must have a street address. If a particular landing location has no street address on record, global positioning system (GPS) coordinates for an identifiable geographic location must be provided. Other criteria could also be applied.

Paper-based reporting during catastrophic conditions

The RA would provide paper-based components for basic required functions of the IFQ program as a backup only during catastrophic conditions. The RA would determine when catastrophic conditions exist, the duration of the catastrophic conditions, and which participants or geographic areas are affected by the catastrophic conditions. The RA would provide timely notice to affected participants and would authorize the affected participants' use of paper-based components for the duration of the catastrophic conditions. NMFS would provide each IFQ dealer the necessary paper forms. No paper-based mechanism for transfers of shares or allocation would be available. Assistance in complying with the requirements of the paper-based system would be available via IFQ Customer Service, Monday through Friday between 8 a.m. and 4:30 p.m. eastern time.

Changes in the Red Snapper IFQ Program

Several changes to the red snapper IFQ program would be made to align that program with the grouper and tilefish IFQ program. One change would be the requirement for an IFQ vessel account for a person aboard a vessel to land red snapper. Before a landing notification for the vessel was submitted, the vessel account associated with that vessel would need to have enough allocation for the fish on board. To improve enforceability of the IFQ program, the estimated pounds (gutted weight) of red snapper on board would be included in the landing notification.

A person who has established an IFQ account online would establish a vessel account through that IFQ account for each vessel. Only one vessel account could be established per vessel, but multiple vessel accounts could be established under each IFQ account. No fee would be charged to set-up an IFQ vessel account. The vessel account would remain valid as long as the reef fish vessel permit remained valid and the vessel owner was in compliance with all Gulf reef fish and IFQ reporting requirements, had paid all IFQ fees, and was not subject to sanctions. The vessel account could not be transferred to another vessel.

The requirement for vessel accounts would eliminate the need for IFQ vessel endorsements; therefore the vessel endorsement requirement would be eliminated from the red snapper IFQ program.

Changes in the Red Snapper IFQ Program Relating to Dealer Requirements

Currently, no method exists to correct errors to landing transactions. Through this rule, if a discrepancy regarding the landing transaction report was discovered after approval, the dealer or vessel account holder (or his or her authorized agent) could initiate a landing transaction correction form to correct the landing transaction. This form would be available via the IFQ website. Both parties would validate the landing correction form by entering their respective PINs. The dealer would then print out the form, both parties would sign it, and the form would be mailed to NMFS. The form would need to be received by NMFS no later than 15 days after the date of the initial landing transaction.

Two items would be eliminated to ease the administrative burden associated with dealer requirements. The first would be the annual ex-vessel value report because the information in the report is readily available on the IFQ website. The second would be the notice of annulment sent on or about the 61st day after the end of each calendar-year quarter for a dealer whose cost recovery fee payment remains delinquent. This notice did not accompany any new action on the part of NMFS to curtail the dealer's activities, and so is unnecessary.

Changes to Share Transfer Process for the Red Snapper IFQ Program

Currently share transfers can only be accomplished by submitting a form signed by both the transferor and transferee to NMFS. With the proposed regulatory change, both share and allocation transfers would be accomplished online via the IFQ website. Approval would be required from both the transferor and transferee. If the information from the transferor was accepted, the online system would send an electronic message of the pending transfer to the transferee. The transferee would approve the share transfer by electronic signature. If the transferee approved the share transfer, the online system would send a transfer approval code to both the transferor and transferee confirming the transaction.

An IFQ shareholder who is subject to a sanction is prohibited from initiating a share transfer. If a transferor is subject to a pending sanction, he/she would be required to disclose in writing the existence of any pending sanction at the time of the transfer to the prospective transferee. The minimum share amount

that could be transferred would be 0.0001 percent.

Changes to Approval of Landing Locations for the Red Snapper IFQ Program

Currently, an IFQ participant can enter any location during the landing notification, and approval is only needed to place the location on the drop-down menu. This proposed rule would require landing locations be approved by NMFS' Office for Law Enforcement prior to landing or offloading at these sites. Proposed landing locations could be submitted via the IFQ website or by calling IFQ Customer Service at any time. However, new landing locations would be approved only at the end of each calendar-year quarter. To have a landing location approved by the end of the calendar-year quarter, it would need to be submitted at least 45 days before the end of the calendar-year quarter. Landing locations would have to be publicly accessible by land and water, and would have to have a street address. If a particular landing location has no street address on record, global positioning system (GPS) coordinates for an identifiable geographic location would have to be provided. Other criteria could also be applied.

Availability of Amendment 29

Additional background and rational for the measures discussed above are contained in Amendment 29. The availability of Amendment 29 was announced in the **Federal Register** on April 8, 2009 (74 FR 15911). Written comments on Amendment 29 must be received by June 8, 2009. All comments received on Amendment 29 or on this proposed rule during their respective comment periods will be addressed in the preamble of the final rule.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 29, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

NMFS prepared a Draft Environmental Impact Statement (DEIS) for this amendment. A notice of availability for the DEIS was published on July 3, 2008 (73 FR 38204).

NMFS prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act, for this proposed rule. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the objectives of, and legal basis for this action are contained at the beginning of this section in the preamble and in the SUMMARY section of the preamble. A copy of the full analysis is available from the Council (see ADDRESSES). A summary of the IRFA follows.

This proposed rule would implement an IFQ program in the commercial grouper and tilefish fisheries; allow a single owner of multiple commercial reef fish permits to consolidate his (her) permits into one, with the consolidated permit having a catch history equal to the sum of the catch histories associated with the individual permits; maintain the current composition of the multi-species DWG unit and revise the SWG unit to include speckled hind and warsaw grouper; restrict initial eligibility to valid commercial reef fish permit holders; distribute initial IFQ shares proportionately among eligible participants based on the average annual landings from logbooks associated with their current permit(s) during the time period 1999 through 2004 with an allowance for excluding one year; establish IFQ share types as follows: red grouper, gag, other SWG, DWG, and tilefish shares; convert 4 percent of each IFQ participant's red grouper individual species share into multi-use red grouper allocation valid for harvesting red or gag groupers, and convert 8 percent of each IFQ participant's gag grouper individual species share into multi-use gag grouper allocation valid for harvesting gag or red groupers; allow transfers of IFQ shares or allocations only to commercial reef fish permit holders during the first five years of the IFQ program and all U.S. citizens and permanent resident aliens thereafter; set a cap on any one person's ownership of IFQ shares to no more than the maximum percentage issued to the recipient of the largest shares at the time of the initial apportionment of IFQ shares, with the cap(s) calculated as separate caps for each type of share; set a total allocation cap calculated as the sum of the maximum allocations associated with the share caps for each individual share category; allocate adjustments in the commercial quota proportionately among eligible IFQ shareholders based on their respective shareholdings at the time of the adjustments; let the RA review, evaluate, and render final decision on appeals, without consideration of hardship arguments; set aside 3 percent of the current commercial quota or allowance to resolve appeals, with any remaining amount proportionately distributed back to initial IFQ shareholders after the appeals process has been terminated; impose an IFQ cost recovery fee based on actual ex-vessel value at the time of sale of fish, with the payment of the fee being the responsibility of the recognized IFQ shareholder and collection/remittance of the fee being the responsibility of the dealer; and establish certified landing sites for all IFQ programs in the commercial reef fish fisheries, with the sites selected by fishermen but certified by NMFS Office of Law Enforcement.

The Magnuson-Stevens Act provides the statutory basis for the proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified.

This proposed rule would introduce new or additional reporting, record-keeping and other compliance requirements. Details of these requirements would be spelled out before implementation of the program. A summary of the general requirements of the grouper and tilefish IFQ program follows.

An IFQ dealer endorsement would be required of any dealer purchasing groupers or tilefishes subject to this IFQ program. The IFQ dealer endorsement would be issued at no cost to those individuals who possess a valid reef fish dealer permit and request the endorsement. Although the current reef fish dealer permit must be renewed annually at a cost of $60 for the initial permit ($12.60 for each additional permit), the IFQ dealer endorsement would remain valid as long as the individual possesses a valid Gulf reef fish dealer permit and abides by all reporting and cost recovery requirements of the IFQ program. This requirement would affect all 159 existing dealers (as of November 2008) of groupers or tilefishes.

An electronic reporting system would serve as the main vehicle for tracking IFQ activities. The electronic nature of the reporting system would render the reporting of most IFQ activities practically on a real time basis. For example, to effect a sale of grouper or tilefish landings, the purchasing dealer would have to log into the electronic reporting system and enter all the required information about the grouper or tilefish sale. The required information includes, but is not limited to, the name of the dealer and that of the fisherman, identification number of the harvesting vessel, and the pounds and ex-vessel values of groupers and tilefishes. Electronic validation of the

dealer-supplied information by the selling fisherman is necessary to complete the sale. Also, transfer of IFQ allocations and shares would have to be effected and recorded through the electronic reporting system. Holders of IFQ allocations could also access the system to check on the outstanding IFQ allocations remaining in their account/possession. In this connection, an IFQ shareholder account, IFQ vessel account, and IFQ dealer account would have to be established with NMFS. There would be no charge to establishing any of these accounts.

By the very nature of the reporting system, IFQ dealers would be required to have access to computers and the Internet. If a dealer does not have current access to computers and the Internet, he/she may have to expend approximately $1,500 for computer equipment (one-time cost) and $300 annual cost for Internet access. Dealers would need some basic computer and Internet skills to input information for all grouper and tilefish purchases into the IFQ electronic reporting system.

Dealers also would have to remit to NMFS, on a quarterly basis, the cost recovery fees initially set at 3 percent of the ex-vessel value of groupers and tilefishes purchased from IFQ share/allocation holders. Although IFQ share/allocation holders would have to pay this fee, it would be the responsibility of dealers to collect and remit these fees to NMFS. Dealers would be required to remit fees electronically by automatic clearing house (ACH), debit card or credit card. There is currently no available information to determine how many of the 159 grouper or tilefish dealers have the necessary electronic capability to participate in the IFQ program. However, demonstration of this capability would be necessary for IFQ program participation. Those dealers currently participating in the red snapper IFQ program would generally meet most, if not all, of the requirements under the electronic reporting system.

Holders of IFQ shares and allocations would need to have access to computers and the Internet to effect allocation transfers through the electronic reporting system. These persons would then be subject to the same cost and skill requirements as dealers. It is very likely that most individuals have access to computers and the Internet. It should also be pointed out that in the case of reporting a sale of groupers or tilefishes to a dealer, all the fisherman would have to do is to validate the sale using the dealer's computer. This requirement would affect all those who would initially qualify for, or those who would decide to participate in, the grouper and tilefish IFQ program.

One other compliance issue under the IFQ system would involve landing and offloading of IFQ groupers or tilefishes. The owner or operator of a vessel landing IFQ groupers or tilefishes would have to provide NMFS an advance landing notification at least 3 hours but no more than 12 hours before arriving at a dock, berth, beach, seawall, or ramp. In addition, offloading of IFQ groupers or tilefishes would be allowed only between 6 a.m. and 6 p.m..

This proposed rule would be expected to directly affect vessels that operate in the Gulf of Mexico commercial reef fish fishery and reef fish dealers or processors. The Small Business Administration (SBA) has established size criteria for all major industry sectors in the U.S. including fish harvesters, fish processors, and fish dealers. A business involved in fish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $4.0 million (NAICS code 114111, finfish fishing) for all affiliated operations worldwide. For seafood processors and dealers, rather than a receipts threshold, the SBA uses an employee threshold of 500 or fewer persons on a full-time, part-time, temporary, or other basis, at all affiliated operations for a seafood processor and 100 or fewer persons for a seafood dealer.

A total of 1,209 vessels is assumed to comprise the universe of commercial harvest operations in the Gulf reef fish fishery. This total includes vessels with active or renewable permits. An examination of permits in conjunction with logbook information revealed, however, that 1,028 permits (as of November 2008) would have some records of landings during the Council's chosen period of 1999–2004 for purposes of determining initial apportionment of IFQ shares.

Whereas there is a one to one correspondence between permits and vessels, the total number of vessels actually harvesting reef fish, or groupers or tilefishes, may be lower or higher than the number of permits. Some vessels may remain inactive in the reef fish fishery during the entire year, so there would be fewer vessels than permits. Because a permit can be transferred from one vessel to another during the year, the number of vessels harvesting any of the species in this amendment during the year may exceed the number of permits. This distinction is important when using logbook information to count vessels.

For the period 1993–2006, an average of 1,123 vessels harvested at least 1 pound (0.45 kg) of reef fish, 993 vessels harvested any groupers or tilefishes, 765 vessels harvested red groupers, 591 vessels harvested gag, 977 vessels harvested shallow water groupers (SWG), 376 vessels harvested deepwater groupers (DWG), and 212 vessels harvested tilefishes. For the period 1999–2004, an average of 1,075 vessels harvested at least 1 pound (0.45 kg) of reef fish, 968 vessels harvested any groupers or tilefishes, 767 vessels harvested red groupers, 655 vessels harvested gag, 958 vessels harvested SWG, 368 vessels harvested DWG, and 193 vessels harvested tilefishes.

Vessels harvesting reef fish in general and groupers or tilefishes in particular use a variety of gear. Some vessels use only one gear type while others use multiple gear types; thus, classification of vessels by gear type is not straightforward for some vessels. For the period 1993–2006, an average of 805 vessels harvested groupers or tilefishes using vertical lines, 171 vessels harvested groupers or tilefishes using longlines, and 162 vessels harvested groupers or tilefishes using other gear types (diving, trap, unclassified). For the period 1999–2004, an average of 790 vessels harvested groupers or tilefishes using vertical lines, 167 vessels harvested groupers or tilefishes using longlines, and 148 vessels harvested groupers or tilefishes using other gear types (diving, trap, unclassified).

Collection of information regarding vessel operating costs was only initiated in mid–2005 and is anticipated to provide trip cost and return information once these data are processed and analyzed. Information from this survey was used in estimating overall economic effects on the commercial sector of an IFQ system in the fishery. This was possible as the evaluation was conducted on a trip basis. However, vessel-level gross and net revenues could not be readily derived using the same trip-based information. For our current purpose, we use cost and return information derived from an earlier survey of commercial reef fish fishermen in the Gulf of Mexico. High-volume vertical line vessels in the northern Gulf grossed an average of approximately $110,000 (2005 dollars) and those in the eastern Gulf grossed approximately $68,000. Their respective net revenues were approximately $28 thousand and $24,000. Low-volume vertical line vessels in the northern Gulf grossed approximately $24,000 and those in the eastern Gulf grossed

approximately $25,000. Their respective net revenues were approximately $7,000 and $4,000. High-volume longline vessels grossed approximately $117,000 while low-volume longline vessels grossed $88,000. Their respective net revenues were approximately $25,000 and $15,000. High-volume fish traps (fish traps have been banned since February 2007) grossed approximately $93,000 while their low-volume counterparts grossed approximately $86,000. Their respective net revenues were approximately $19,000 and $21,000.

A definitive calculation of which commercial entities would be considered large entities and small entities cannot be made using average income information. However, based on those data and the permit data showing the number of permits each person/entity owns, it appears that all of the commercial reef fish fleet would be considered small entities. The maximum number of permits reported to be owned by the same person/entity was six, additional permits (and revenues associated with those permits) may be linked through affiliation rules. Affiliation links cannot be made using permit data. If one entity held six permits and was a high-volume bottom longline gear vessel, they would be estimated to generate about $700,000 in annual revenue. That estimate is well below the $4 million threshold set by the SBA for defining a large entity.

Also affected by the measures in this amendment are fish dealers, particularly those who receive gag and red groupers from harvesting vessels. Currently, a Federal permit is required for a fish dealer to receive reef fish from commercial vessels. As of November 2008, there were 159 active permits for dealers buying and selling reef fish species; but since the reef fish dealer permitting system in the Gulf is an open access program, the number of dealers can vary from year to year. As part of the commercial reef fish logbook program, reporting vessels identify the dealers who receive their landed fish. Commercial reef fish vessels with Federal permits are required to sell their harvest only to permitted dealers. For the period 2004–2007, these dealers handled an average of 10.8 million lb (4.9 million kg) of groupers and tilefishes valued at $25.4 million. These dealer transactions were distributed as follows: Florida, with 10 million lb (4.5 million kg) worth $23.5 million; Alabama and Mississippi, with 102,000 lb (46,266 kg) worth $222 thousand; Louisiana, with 270,000 lb (122,476 kg) worth $592 thousand: and, Texas, with 434,000 lb (196,859 kg) worth $1.03 million. The rest of transactions were handled by dealers outside of the Gulf.

Average employment information per reef fish dealer is unknown. It is estimated that total employment for reef fish processors in the Southeast at approximately 700 individuals, both part and full time. It is assumed all processors must be dealers, yet a dealer need not be a processor. Further, processing is a much more labor intensive exercise than dealing. Therefore, given the employment estimate for the processing sector, it is assumed that the average dealer's number of employees would not surpass the SBA employment benchmark.

Based on the gross revenue and employment profiles presented above, all permitted commercial reef fish vessels and fish dealers directly affected by the proposed rule may be classified as small entities.

Because all entities that are expected to be affected by the proposed rule are considered small entities, the issue of disproportional impacts on small and large entities does not arise. Although some vessel operations are larger than others, they nevertheless fall within the definition of small entities.

The various measures in this proposed rule have varying effects on small entities. Adoption of an IFQ program for the grouper and tilefish fishery has been estimated to result in variable cost savings to the fishing industry of $2.23 to $3.24 million per year. There would also be some unknown reductions in fixed costs. In addition, there would result possible increases in revenues as improved product quality would command higher prices.

Permit stacking would allow owners to consolidate their multiple permits into one with corresponding consolidation of landings history for all permits. This may be expected to accelerate the reduction in the number of permits, resulting in cost savings to permit owners and in administrative cost reductions.

Dual classification of both speckled hind and warsaw grouper into SWG and DWG would tend to reduce discards of both species and allow fishermen to keep more of these two species they catch. Also, this has been estimated to increase revenues of fishermen by $450,000.

Restricting the number of participants eligible to receive initial IFQ shares to commercial permit holders only would prevent over-extended distribution of IFQ shares while allowing active participants in the fishery to immediately benefit from the implementation of the grouper and tilefish IFQ program. This limitation would also tend to speed up the process of consolidation in the fishery, a result that would allow participants to reap the gains from an IFQ program over a relatively short time.

Initial apportionment of IFQ shares based on landings history for the years 1999–2004, with allowance to drop one year, would provide a higher likelihood that active participants in the fishery would be allotted IFQ shares in accordance with the extent of their participation in the fishery. This would tend to preserve the historical landings status of eligible participants, so the initial impacts on their profits would be at least not be diminished. As the IFQ program progresses, their profits may be expected to increase whether or not they choose to fish their IFQs or lease or sell them to others.

By defining IFQ shares on a species-specific basis, the eventual true value of each species may be generated. This option, however, could result in more discards of some species and complicate balancing of catch and quota as well as the monitoring of the IFQ program. It thus needs to be complemented by flexibility measures to assist IFQ participants in balancing their catch and quota holdings. The provision for multi-use allocations would introduce certain flexibility as IFQ participants would have some leeways in balancing their catch and quota holdings.

The transferability aspect of IFQ shares/allocation provides the mechanism to allow the IFQ program to generate greater efficiency and higher profitability in the fishery. As such, the lesser the limitations on transferability the better the system would be. The proposed rule would limit transfers only to reef fish permit holders the first five years of the program and to a broader pool of participants thereafter. While the five-year limitation would unlikely bring about cost increases, it would not allow proper pricing of IFQ shares. This condition, however, may be necessary to allow IFQ holders to get familiar with the IFQ program before they engage in transfers outside of the limited pool of eligible IFQ transfer recipients.

Establishing a cap on IFQ share holdings is consistent with the Magnuson-Stevens Act provision to prevent the acquisition of excessive shares in the IFQ program. The proposed rule to set the share cap to the maximum assigned to a participant during initial apportionment would allow every participant to at least maintain their existing scale of operation. Costs of operation and possibly revenues may be expected to remain the same. Over time, all

participants, except the highest one, would be able to increase their scale of operation they deem most profitable to them. The highest holders, however, and presumably the current more efficient producers would not have the same opportunity as the others.

The same reasoning as stated in the preceding paragraph for a share cap would also apply to the proposed rule to establish a cap on IFQ allocation holdings. In addition, the established cap on IFQ allocations could possibly close the loophole allowing some participants to circumvent the established cap on IFQ share holdings by entering into a long-term contract with other participants.

Quotas change periodically, so there is a need to address this in the IFQ program. The proposed rule would allocate quota adjustments, increases or decreases, in proportion to a participant's IFQ share ownership at the time of quota adjustments. This may not allocate quota adjustments as efficiently as an auction alternative, but it appears to be the least costly and least disruptive option.

The establishment of an appeals process affords participants the opportunity to correct any mistakes in the initial allocation of IFQ shares. This could result in more costs to participants and the administering agency, but such costs are expected to be relatively small especially when seen against the potential benefits it would generate. The added provision to set aside 3 percent of the quota to settle appeals would prevent the possibility of taking back some allocations already distributed to participants.

The cost recovery fee feature of the IFQ program (a requirement under the Magnuson-Stevens Act) would undoubtedly impose additional cost on fishing participants both in terms of reductions in revenue and increases in costs (particularly on dealers) to comply with the collection and remittance of the fees to NMFS. A 3–percent cost recovery fee based on total revenues could translate into larger reductions in profits, particularly for small fishing operations.

Certified landing sites where fishermen are obligated to land their IFQ catches may increase the cost of fishing operations. This could happen if for some reasons, such as weather conditions and fishing opportunities, fishermen may have to travel far if the nearest landing site is not certified. This could, however, enhance the enforcement of IFQ rules which may help ensure that benefits from the program are not impaired.

It is expected that the combined effects of the proposed rule would result in significant changes to the profitability status of fishing operations in the grouper and tilefish fishery. This is especially true over the long run when significant benefits, both in terms of revenue increases and cost decreases, may be expected to accrue. The net economic effects on dealers cannot be readily ascertained.

Several alternatives were considered by the Council in their deliberation of the various measures in this amendment. For purposes of the succeeding discussion, each of the Council's preferred alternatives is termed proposed action.

Three alternatives, including no action, were considered for establishment of an IFQ program. The first alternative (no action) to the proposed action would maintain the incentives to overcapitalize the fishery and to promote derby fishing. Such conditions may be expected to result in increased operating costs, increased likelihood of shortened seasons, reduced at-sea safety, wide fluctuations in domestic grouper and tilefish supply, and depressed ex-vessel prices for groupers and tilefishes. The other alternative to the proposed action, establishment of an endorsement system, would have short-term effectiveness in addressing overcapitalization and derby fishing by reducing the number of participants. Over the long run, remaining participants may be expected to increase their effort either through vessel, crew, and equipment upgrades or via additional or longer fishing trips.

The only alternative to the proposed action of consolidating multiple commercial reef fish permits is the no action alternative. This alternative would not accelerate the reduction in the number of permits, thus forgoing the benefits from permit stacking due to cost savings by permit owners and reductions in administrative costs.

Four alternatives, including no action, were considered regarding the species composition of DWG and SWG. The first alternative (no action) to the proposed action would maintain the composition of the SWG and DWG management units. This alternative would neither reduce the discards of speckled hind or warsaw grouper nor grant flexibility to IFQ participants. The second alternative to the proposed action would classify speckled hind as both SWG and DWG while the third alternative to the proposed action would classify warsaw grouper as both SWG and DWG. These two alternatives would reduce discards and add flexibility to IFQ participants but only with respect to either speckled hind or warsaw grouper but not both as in the proposed action.

Four alternatives, including no action, were considered for initial eligibility in the IFQ program. The first alternative (no action) to the proposed action would not specify initial eligibility requirements for IFQ share allocation, and thus is deemed to provide insufficient guidance in initially allocating IFQ shares. The other alternatives to the proposed action would include more entities for initial distribution of IFQ shares: a) commercial reef fish permit holders and reef fish captains and crew, b) commercial reef fish permit holders and permitted dealers, and c) commercial reef fish permit holders, reef fish captains and crew, and permitted dealers. These other alternatives to the proposed action would complicate the determination of initial IFQ holders, slow down the eventual consolidation of fishing operations in the fishery, and lessen the likelihood of maintaining viable fishing operations.

Four alternatives, including no action, were considered for the initial apportionment of IFQ shares. The first alternative (no action) to the proposed action would not provide any guidance in initially apportioning IFQ shares. The second alternative to the proposed action would proportionately allocate IFQ shares based on average annual landings during 1999–2004. This alternative is less flexible than the proposed action where eligible participants could drop one year in calculating annual average landings. The third alternative to the proposed action would initially distribute IFQ shares through an auction. This alternative may be deemed best in generating the most appropriate value for IFQ shares at the start of the program. However, this alternative offers some possibility that some historical yet active participants in the fishery would not receive any IFQ share or receive only few shares that would not make their fishing operations viable.

Four alternatives, including no action, were considered for IFQ share definitions. The first alternative (no action) to the proposed action would not establish IFQ shares and is therefore not a viable alternative under an IFQ system. The second alternative to the proposed action would establish a single IFQ share for the combined groupers and tilefishes. While this alternative would tend to minimize transaction costs and eliminate the need to trade shares to balance catch and quota holdings, it would limit the effectiveness of species-specific

management measures and complicate the future establishment of annual catch limits required by the Magnuson-Stevens Act. The third alternative to the proposed action would establish separate IFQ shares for the deep water grouper complex, the shallow water grouper complex, and tilefish. As with the second alternative, this particular alternative would limit the effectiveness of species-specific management measures and complicate the future establishment of annual catch limits required by the Magnuson-Stevens Act.

Three alternatives, including no action, were considered for multi-use allocation and trip limits. The first alternative (no action) to the proposed action would not establish multi-use IFQ shares or trip allowances and thus, would not contribute to catch and quota balancing under the IFQ program. The second alternative to the proposed action would establish a trip allowance granting IFQ participants the flexibility to land red or gag for which the IFQ participant has no allocation by using allocation from the other species (i.e., red or gag). This alternative would not cap the amount of multi-use allocation and would be associated with a higher likelihood of exceeding allowable harvest levels.

Three alternatives, including no action, were considered for transfer eligibility requirements. The first alternative (no action) to the proposed action would make any U.S. citizen or permanent resident alien eligible for IFQ share or allocation transfer. Among the alternatives, this one would immediately allow the largest pool of IFQ share/allocation recipients, thereby providing the best mechanism for eliciting the highest value of an IFQ share or allocation. The difference between this alternative and the proposed action is the provision in the latter that transfers be allowed only among holders of commercial reef fish permits during the first 5 years of the IFQ program. Over the long-run, then, the two alternatives would have the same economic effects. The proposed action reflects the Council's intent to provide enough time for current fishery participants to be familiar with the nature of the IFQ system, particularly with respect to proper valuation of IFQ shares/allocations, before opening up the market to a broader pool of participants. The second alternative to the proposed action would limit transfer eligibility only to commercial reef fish permit holders. This alternative was not chosen, because it would constrain the process of valuing IFQ shares/allocations over a long time.

Three alternatives, including no action, were considered for caps on IFQ share ownership. The first alternative (no action) to the proposed action would not impose any cap on IFQ share ownership. Although this alternative offers the best environment for individual fishing operations to determine their most profitable scale of operations, this was not chosen because it also offers the highest probability for an individual fishing operation or very few fishing operations to obtain ''excessive share'' which the Magnuson-Stevens Act disallows. The second alternative to the proposed action would impose an IFQ share cap of 5 percent, 10 percent, or 15 percent of either the total grouper and tilefish shares or each type of species-specific shares. Part of this second alternative is the provision for grandfathering in those with initial percent shares higher than the chosen ownership cap. Although this alternative appears to balance the concern over excessive share and that of constraining the operations of the most efficient producers, this was not chosen because it would appear to impose arbitrary levels of maximum share ownership. The issue of grandfathering in those with initial share above the maximum would also limit the ability of some producers to compete in the open market against those grandfathered in. Part of the rationale for the proposed action was to achieve consistency with similar provision in the red snapper IFQ program, and this would not be achieved under the two alternatives to the proposed action. A sub-option under the proposed action which would impose a cap on total grouper and tilefish IFQ shares but not on each type of IFQ share was not chosen, because it could result in some entities obtaining excessive shares of certain species.

Three alternatives, including no action, were considered for caps on IFQ allocation ownership. The first alternative (no action) to the proposed action would not limit the amount of IFQ allocation to be owned by any entity each year. Although this alternative would provide the best economic environment relative to the holding of IFQ allocations, it would afford some entities the opportunity to circumvent the provision on IFQ share cap by entering into long-term arrangements with IFQ share/allocation holders. The second alternative to the proposed action would impose an allocation cap of an additional 1 percent, 2 percent, or 5 percent above the percent cap on IFQ share ownership. This alternative was not chosen because of the potential complication it would add to the monitoring and enforcement of share ownership cap.

Three alternatives, including no action, were considered for adjustments in annual allocations of commercial TAC. The first alternative (no action) to the proposed action would not specify the allocation mechanism of any changes in commercial TAC. This alternative was not chosen because it would require the Council to address allocation issue every time the commercial quota is adjusted and thus would impose additional administrative costs. This could also delay the determination of each entity's allocation at the start of the fishing season which could be disruptive to the affected entity's fishing operations. The second alternative to the proposed action would allocate adjustments in the commercial quota via an auction system. This alternative was not chosen because it could complicate and thus increase the cost of allocating quota adjustments. Moreover, it could raise equity concerns if the winners were new entrants who did not share the cost of managing the fishery.

Four alternatives, including no action, were considered regarding the appeals process. The proposed action consists of two alternatives. One pertains to the establishment and structure of an appeals process and the other to the provision of a commercial quota set-aside to resolve appeals. The first alternative (no action) to the proposed action on appeals process would not provide a formal, in-house means of addressing disputes particularly regarding initial IFQ share allocation and so was not chosen by the Council. The second alternative to the proposed action on appeals process would establish a special board composed of state directors/designees who will review, evaluate, and make individual recommendations to the NMFS RA on appeals. This alternative was not chosen because it would merely add layers to the appeals process that would tend to increase the administrative costs. Besides, this alternative would mainly provide board members' advice to the RA on appeals matters. The 3–percent quota set-aside is based on a similar percent level chosen for the red snapper IFQ program that sufficiently accommodated all appeals.

Three alternatives, including no action, were considered for a cost recovery plan. The first alternative (no action) to the proposed action would not impose a cost recovery fee. This would not be consistent with provisions of the Magnuson-Stevens Act. The second alternative to the proposed action would require each IFQ

registered buyer who purchased IFQ groupers or tilefishes to submit an IFQ Buyer report either on a quarterly or annual basis. This alternative was deemed to mainly impose additional costs with relatively small economic or social benefits. Under the proposed action, several sub-options were also considered but rejected. The first of such sub-options would calculate the recovery fee based on standard, as opposed to actual, ex-vessel value. The second sub-option would impose the responsibility of collecting and remitting the fees on the IFQ shareholders. The third sub-option would require the remittance of collected fees on a monthly basis. The rationale for their rejection was that being inconsistent with corresponding provisions in the red snapper IFQ system would add complication to the cost recovery plan and add costs to both the participants and NMFS.

Three alternatives, including no action, were considered for certifying landing sites. The first alternative (no action) to the proposed action would not establish certified landing sites for IFQ programs in the commercial reef fish fisheries, thus providing no additional means to improve enforcement of the grouper and tilefish IFQ program. The second alternative to the proposed action would require that landing sites be certified by the Office of Law Enforcement in order for IFQ fishermen to use the VMS units as an option for reporting landing notifications. This was deemed unnecessary for monitoring and enforcing the grouper and tilefish IFQ program. Under the proposed action, a sub-option providing for the selection of certified landing sites by the Council and NMFS, based on industry recommendations and resource availability was not adopted. This sub-option was deemed more restrictive than the proposed action in identifying landing sites for certification purposes.

In addition to the above, Amendment 29 also explicitly considered six other issues for which the Council chose the no action alternatives. These issues are: (1) definition of ''substantial participants'' for the IFQ program; (2) ''use it or lose it'' policy for IFQ shares; (3) IFQ guaranteed loan program; (4) minimum threshold landings for the endorsement system; (5) qualifying years for the endorsement system; and, (6) incidental catch provision under the endorsement system.

Seven alternatives, including no action, were considered for the definition of substantial participants. The various alternatives would include varying entities as substantial participants in the fishery. The first alternative (no action) would not impose an all-encompassing number of eligible entities for the transfer of IFQ shares/allocations; the second would include only commercial reef fish permit holders; the third would include commercial reef fish permit holders and reef fish captains and crew; the fourth would include commercial reef fish permit holders and permitted reef fish dealers; the fifth would include commercial reef fish permit holders, permitted reef fish dealers, and reef fish captains and crew; the sixth would include commercial reef fish permit holders considered substantial participants for purposes of the referendum; and, the seventh would include commercial reef fish permit holders, reef fish captains and crew, and others who provide services in the reef fish fishery, such as restaurant owners and fish house employees. All these alternatives, except no action, would limit the number of entities eligible for the transfer of IFQ shares and annual allocations so as to eventually affect the appropriate pricing of shares, allocations, and ultimately the fish resource.

Three alternatives, including no action, were considered for the ''use it or lose it'' policy for IFQ shares. The first alternative (no action) would not require any minimum landings for an IFQ share to remain valid; the second would provide for the revocation and subsequent redistribution among the remaining shareholders of IFQ share certificates that remain inactive (less than 30–percent utilization) for 3 years; the third is similar to the second, except that it defines inactivity as less than 50–percent utilization of allotted IFQ shares. All these alternatives, except no action, would tend to unduly penalize those experiencing problems with their equipment, labor, or health. Although, the alternatives, other than no action, would address permanent disability. In addition, they would mainly increase monitoring costs without necessarily providing any tangible economic or social benefits.

Three alternatives, including no action, were considered for the IFQ loan program. The first alternative (no action) would not establish a guaranteed loan program under the IFQ system; the second would set aside 15 percent of the cost recovery fees to establish a guaranteed loan program; and, the third would set aside 25 percent of the cost recovery fees to establish a guaranteed loan program. Establishing a guaranteed loan program under the second or third alternative would use up part of the cost recovery fees as well as divert NMFS resources that could otherwise be devoted to effectively administer the grouper and tilefish IFQ program.

Three sets of alternatives were considered for the endorsement system. Three alternatives, including no action, were considered for minimum threshold landings for endorsements; three alternatives, including no action, were considered for qualifying years for endorsement eligibility; and, three alternatives, including no action, were considered for incidental catch provision under the endorsement system. Opting for the no action alternatives follows from the Council's decision to reject the endorsement system as an effort management approach in favor of the IFQ program.

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

This proposed rule contains collection-of-information requirements subject to the PRA. The collections and the associated estimated average public reporting burden per response are provided in the following table.

COLLECTION REQUIREMENT	ESTIMATED BURDEN PER RESPONSE
Dealer Account Activation	5 minutes
Dealer Transaction Report	7 minutes
Shareholder Account Activation	5 minutes
Fisherman Account Activation	10 minutes
Active Vessels Report	10 minutes
Approval of Landing Location	5 minutes
Notification of Landing Time	3 minutes
Transfer of Share	15 minutes
Transfer of Allocation	5 minutes
Permit Consolidation	10 minutes

These requirements have been submitted to OMB for approval. These estimates of the public reporting burden includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and

reviewing the collections of information.

Public comment is sought regarding: whether these proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the burden estimates; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments regarding the burden estimates or any other aspect of the collection-of-information requirements, including suggestions for reducing the burden, to NMFS and to OMB (see **ADDRESSES**).

List of Subjects in 50 CFR Part 622

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

Dated: April 21, 2009.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

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

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

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

2. In § 622.1, paragraph (b), Table 1, the entry for FMP for the Reef Fish Resources of the Gulf of Mexico, and footnote 5 are revised, and footnote 6 is added to read as follows:

§ 622.1 Purpose and scope.

* * * * *

(b) * * *

TABLE 1—FMPS IMPLEMENTED UNDER PART 622

FMP title	Responsible fishery management council(s)	Geographical area
* *	* *	*
FMP for the Reef Fish Resources of the Gulf of Mexico.	GMFMC	Gulf.[1,5,6]

TABLE 1—FMPS IMPLEMENTED UNDER PART 622—Continued

FMP title	Responsible fishery management council(s)	Geographical area
* *	* *	*

[1] Regulated area includes adjoining state waters for purposes of data collection and quota monitoring.

* * * * *

[5] Regulated area includes adjoining state waters for Gulf red snapper harvested or possessed by a person aboard a vessel for which a Gulf red snapper IFQ vessel account has been established or possessed by a dealer with a Gulf IFQ dealer endorsement.

[6] Regulated area includes adjoining state waters for Gulf groupers and tilefishes harvested or possessed by a person aboard a vessel for which an IFQ vessel account for Gulf groupers and tilefishes has been established or possessed by a dealer with a Gulf IFQ dealer endorsement.

3. In § 622.2, the definitions of ''Deep-water groupers (DWG)'' and ''Shallow-water groupers (SWG)'' are added to read as follows:

§ 622.2 Definitions and acronyms.

* * * * *

Deep-water groupers (DWG) means yellowedge grouper, misty grouper, warsaw grouper, snowy grouper, and speckled hind. In addition, for the purposes of the IFQ program for Gulf groupers and tilefishes in § 622.20, scamp are also included as DWG as specified in § 622.20(b)(2)(vi).

* * * * *

Shallow-water groupers (SWG) means gag, red grouper, black grouper, scamp, yellowfin grouper, rock hind, red hind, and yellowmouth grouper. In addition, for the purposes of the IFQ program for Gulf groupers and tilefishes in § 622.20, speckled hind and warsaw grouper are also included as SWG as specified in § 622.20(b)(2)(v).

* * * * *

4. In § 622.4, paragraphs (a)(2)(v), (a)(2)(ix), and (a)(4)(ii) are revised, and a new sentence is added after the third sentence in paragraph (i) to read as follows:

§ 622.4 Permits and fees.

* * * * *

(a) * * *

(2) * * *

(v) *Gulf reef fish.* For a person aboard a vessel to be eligible for exemption from the bag limits, to fish under a quota, as specified in § 622.42(a)(1), or to sell Gulf reef fish in or from the Gulf EEZ, a commercial vessel permit for Gulf reef fish must have been issued to the vessel and must be on board. If Federal regulations for Gulf reef fish in subparts A, B, or C of this part are more restrictive than state regulations, a person aboard a vessel for which a commercial vessel permit for Gulf reef fish has been issued must comply with such Federal regulations regardless of where the fish are harvested. See paragraph (a)(2)(ix) of this section regarding an IFQ vessel account required to fish for, possess, or land Gulf red snapper or Gulf groupers and tilefishes. To obtain or renew a commercial vessel permit for Gulf reef fish, more than 50 percent of the applicant's earned income must have been derived from commercial fishing (i.e., harvest and first sale of fish) or from charter fishing during either of the 2 calendar years preceding the application. See paragraph (m) of this section regarding a limited access system for commercial vessel permits for Gulf reef fish and limited exceptions to the earned income requirement for a permit.

(A) *Option to consolidate commercial vessel permits for Gulf reef fish.* A person who has been issued multiple commercial vessel permits for Gulf reef fish and wants to consolidate some or all of those permits, and the landings histories associated with those permits, into one permit must submit a completed permit consolidation application to the RA. The permits consolidated must be valid, non-expired permits and must be issued to the same entity. The application form and instructions are available online at *sero.nmfs.noaa.gov.* After consolidation, such a person would have a single permit, and the permits that were consolidated into that permit will be permanently terminated.

(B) [Reserved]

* * * * *

(ix) *Gulf IFQ vessel accounts.* For a person aboard a vessel, for which a commercial vessel permit for Gulf reef fish has been issued, to fish for, possess, or land Gulf red snapper or Gulf groupers (including DWG and SWG, as specified in § 622.20(a)) or tilefishes (including goldface tilefish, blackline tilefish, anchor tilefish, blueline tilefish, and tilefish), regardless of where harvested or possessed, a Gulf IFQ vessel account for the applicable species or species groups must have been established. As a condition of the IFQ vessel account, a person aboard such vessel must comply with the requirements of § 622.16 when fishing for red snapper or § 622.20 when fishing for groupers or tilefishes regardless of where the fish are harvested or

possessed. An owner of a vessel with a commercial vessel permit for Gulf reef fish, who has established an IFQ account for the applicable species, as specified in § 622.16(a)(3)(i) or § 622.20(a)(3)(i), online via the NMFS IFQ website *ifq.sero.nmfs.noaa.gov*, may establish a vessel account through that IFQ account for that permitted vessel. If such owner does not have an online IFQ account, the owner must first contact IFQ Customer Service at 1–866–425–7627 to obtain information necessary to access the IFQ website and establish an online IFQ account. There is no fee to set-up an IFQ account or a vessel account. Only one vessel account may be established per vessel under each IFQ program. An owner with multiple vessels may establish multiple vessel accounts under each IFQ account. The purpose of the vessel account is to hold IFQ allocation that is required to land the applicable IFQ species. A vessel account must hold sufficient IFQ allocation in the appropriate share category, at least equal to the pounds in gutted weight of the red snapper or groupers and tilefishes on board, from the time of advance notice of landing through landing (except for any overage allowed as specified in § 622.16(c)(1)(ii) for red snapper and § 622.20(c)(1)(ii) for groupers and tilefishes). The vessel account remains valid as long as the vessel permit remains valid; the vessel has not been sold or transferred; and the vessel owner is in compliance with all Gulf reef fish and IFQ reporting requirements, has paid all applicable IFQ fees, and is not subject to sanctions under 15 CFR part 904. The vessel account is not transferable to another vessel. The provisions of this paragraph do not apply to fishing for or possession of Gulf groupers and tilefishes under the bag limit specified in § 622.39 (b)(1)(ii) or Gulf red snapper under the bag limit specified in § 622.39 (b)(1)(iii). See § 622.16 regarding other provisions pertinent to the Gulf red snapper IFQ system and § 622.20 regarding other provisions pertinent to the IFQ system for Gulf groupers and tilefishes.

* * * * *

(4) * * *

(ii) *Gulf IFQ dealer endorsements*. In addition to the requirement for a dealer permit for Gulf reef fish as specified in paragraph (a)(4)(i) of this section, for a dealer to receive red snapper subject to the Gulf red snapper IFQ program, as specified in § 622.16(a)(1), or groupers and tilefishes subject to the IFQ program for Gulf groupers and tilefishes, as specified in § 622.20(a)(1), or for a person aboard a vessel with a Gulf IFQ vessel account to sell such red snapper or groupers and tilefishes directly to an entity other than a dealer, such persons must also have a Gulf IFQ dealer endorsement. A dealer with a Gulf reef fish permit can download a Gulf IFQ dealer endorsement from the NMFS IFQ website at *ifq.sero.nmfs.noaa.gov*. If such persons do not have an IFQ online account, they must first contact IFQ Customer Service at 1–866–425–7627 to obtain information necessary to access the IFQ website and establish an IFQ online account. There is no fee for obtaining this endorsement. The endorsement remains valid as long as the Gulf reef fish dealer permit remains valid and the dealer is in compliance with all Gulf reef fish and IFQ reporting requirements, has paid all IFQ fees required under paragraph (c)(2) of this section, and is not subject to any sanctions under 15 CFR part 904. The endorsement is not transferable. See § 622.16 regarding other provisions pertinent to the Gulf red snapper IFQ system and § 622.20 regarding other provisions pertinent to the IFQ system for Gulf groupers and tilefishes.

* * * * *

(i) *Display*. * * * A Gulf IFQ dealer endorsement must accompany each vehicle that is used to pick up Gulf IFQ red snapper and/or Gulf IFQ groupers and tilefishes. * * *

* * * * *

5. In § 622.7, paragraphs (gg) and (hh) are revised to read as follows:

§ 622.7 Prohibitions.

* * * * *

(gg) Fail to comply with any provision related to the Gulf red snapper IFQ program as specified in § 622.16, or the IFQ program for Gulf groupers and tilefishes as specified in § 622.20.

(hh) Falsify any information required to be submitted regarding the Gulf red snapper IFQ program as specified in § 622.16, or the IFQ program for Gulf groupers and tilefishes as specified in § 622.20.

* * * * *

6. In § 622.16, revise the fifth and sixth sentences in the introductory text of paragraph (a), and revise paragraphs (a)(1) and (c) to read as follows:

§ 622.16 Gulf red snapper individual fishing quota (IFQ) program.

(a) * * * See § 622.4(a)(2)(ix) regarding a requirement for a vessel landing red snapper subject to this IFQ program to have a Gulf red snapper IFQ vessel account. See § 622.4(a)(4)(ii) regarding a requirement for a Gulf IFQ dealer endorsement. * * *

(1) *Scope*. The provisions of this section apply to Gulf red snapper in or from the Gulf EEZ and, for a person aboard a vessel with a Gulf red snapper IFQ vessel account as required by § 622.4(a)(2)(ix) or for a person with a Gulf IFQ dealer endorsement as required by § 622.4(a)(4)(ii), these provisions apply to Gulf red snapper regardless of where harvested or possessed.

* * * * *

(c) *IFQ operations and requirements*—(1) *IFQ Landing and transaction requirements*. (i) Gulf red snapper subject to this IFQ program can only be possessed or landed by a vessel with a Gulf red snapper IFQ vessel account with allocation at least equal to the pounds of red snapper on board, except as provided in paragraph (c)(1)(ii) of this section. Such red snapper can only be received by a dealer with a Gulf IFQ dealer endorsement.

(ii) A person on board a vessel with an IFQ vessel account landing the shareholder's only remaining allocation, can legally exceed, by up to 10 percent, the shareholder's allocation remaining on that last fishing trip of the fishing year, i.e., a one-time per fishing year overage. Any such overage will be deducted from the shareholder's applicable allocation for the subsequent fishing year. From the time of the overage until January 1 of the subsequent fishing year, the IFQ shareholder must retain sufficient shares to account for the allocation that will be deducted the subsequent fishing year. Share transfers that would violate this requirement will be prohibited.

(iii) The dealer is responsible for completing a landing transaction report for each landing and sale of Gulf red snapper via the IFQ website at *ifq.sero.nmfs.noaa.gov* at the time of the transaction in accordance with reporting form and instructions provided on the website. This report includes, but is not limited to, date, time, and location of transaction; weight and actual ex-vessel value of red snapper landed and sold; and information necessary to identify the fisherman, vessel, and dealer involved in the transaction. The fisherman must validate the dealer transaction report by entering his unique PIN number when the transaction report is submitted. After the dealer submits the report and the information has been verified, the website will send a transaction approval code to the dealer and the allocation holder.

(iv) If there is a discrepancy regarding the landing transaction report after approval, the dealer or vessel account holder (or his or her authorized agent) may initiate a landing transaction correction form to correct the landing

transaction. This form is available via the IFQ website at *ifq.sero.nmfs.noaa.gov*. Both parties must validate the landing correction form by entering their respective PIN numbers, i.e. vessel account PIN or dealer account PIN. The dealer must then print out the form, both parties must sign it, and the form must be mailed to NMFS. The form must be received by NMFS no later than 15 days after the date of the initial landing transaction.

(2) *IFQ cost recovery fees*. As required by section 304(d)(2)(A)(i) of the Magnuson-Stevens Act, the RA will collect a fee to recover the actual costs directly related to the management and enforcement of the Gulf red snapper IFQ program. The fee cannot exceed 3 percent of the ex-vessel value of Gulf red snapper landed under the IFQ program. Such fees will be deposited in the Limited Access System Administration Fund (LASAF). Initially, the fee will be 3 percent of the actual ex-vessel value of Gulf red snapper landed under the IFQ program, as documented in each landings transaction report. The RA will review the cost recovery fee annually to determine if adjustment is warranted. Factors considered in the review include the catch subject to the IFQ cost recovery, projected ex-vessel value of the catch, costs directly related to the management and enforcement of the IFQ program, the projected IFQ balance in the LASAF, and expected non-payment of fee liabilities. If the RA determines that a fee adjustment is warranted, the RA will publish a notification of the fee adjustment in the **Federal Register**.

(i) *Payment responsibility*. The IFQ allocation holder specified in the documented red snapper IFQ landing transaction report is responsible for payment of the applicable cost recovery fees.

(ii) *Collection and submission responsibility*. A dealer who receives Gulf red snapper subject to the IFQ program is responsible for collecting the applicable cost recovery fee for each IFQ landing from the IFQ allocation holder specified in the IFQ landing transaction report. Such dealer is responsible for submitting all applicable cost recovery fees to NMFS on a quarterly basis. The fees are due and must be submitted, using pay.gov via the IFQ system at the end of each calendar-year quarter, but no later than 30 days after the end of each calendar-year quarter. Fees not received by the deadline are delinquent.

(iii) *Fee payment procedure*. For each IFQ dealer, the IFQ system will post, on individual message boards, an end-of-quarter statement of cost recovery fees that are due. The dealer is responsible for submitting the cost recovery fee payments using pay.gov via the IFQ system. Authorized payments methods are credit card, debit card, or automated clearing house (ACH). Payment by check will be authorized only if the RA has determined that the geographical area or an individual(s) is affected by catastrophic conditions.

(iv) *Fee reconciliation process—delinquent fees*. The following procedures apply to an IFQ dealer whose cost recovery fees are delinquent.

(A) On or about the 31st day after the end of each calendar-year quarter, the RA will send the dealer an electronic message via the IFQ website and official notice via mail indicating the applicable fees are delinquent, and the dealer's IFQ account has been suspended pending payment of the applicable fees.

(B) On or about the 91st day after the end of each calendar-year quarter, the RA will refer any delinquent IFQ dealer cost recovery fees to the appropriate authorities for collection of payment.

(3) *Measures to enhance IFQ program enforceability*—(i) *Advance notice of landing*. For the purpose of this paragraph, landing means to arrive at a dock, berth, beach, seawall, or ramp. The owner or operator of a vessel landing IFQ red snapper is responsible for ensuring that NMFS is contacted at least 3 hours, but no more than 12 hours, in advance of landing to report the time and location of landing, estimated red snapper landings in pounds gutted weight, vessel identification number (Coast Guard registration number or state registration number), and the name and address of the IFQ dealer where the red snapper are to be received. The vessel landing red snapper must have sufficient IFQ allocation in the IFQ vessel account, at least equal to the pounds in gutted weight of red snapper on board (except for any overage up to the 10 percent allowed on the last fishing trip) from the time of the advance notice of landing through landing. Authorized methods for contacting NMFS and submitting the report include calling NMFS Office for Law Enforcement at 1–866–425–7627, completing and submitting to NMFS the notification form provided through the VMS unit, or providing the required information to NMFS through the web-based form available on the IFQ website at *ifq.sero.nmfs.noaa.gov*. As new technology becomes available, NMFS will add other authorized methods for complying with the advance notification requirement, via appropriate rulemaking. Failure to comply with this advance notice of landing requirement is unlawful and will preclude authorization to complete the landing transaction report required in paragraph (c)(1)(iii) of this section and, thus, will preclude issuance of the required transaction approval code.

(ii) *Time restriction on offloading*. IFQ red snapper may be offloaded only between 6 a.m. and 6 p.m., local time.

(iii) *Restrictions on transfer of IFQ red snapper*. At-sea or dockside transfer of IFQ red snapper from one vessel to another vessel is prohibited.

(iv) *Requirement for transaction approval code*. If IFQ red snapper are offloaded to a vehicle for transportation to a dealer or are on a vessel that is trailered for transport to a dealer, on-site capability to accurately weigh the fish and to connect electronically to the online IFQ system to complete the transaction and obtain the transaction approval code is required. After a landing transaction has been completed, a transaction approval code verifying a legal transaction of the amount of IFQ red snapper in possession and a copy of the dealer endorsement must accompany any IFQ red snapper from the landing location through possession by a dealer. This requirement also applies to IFQ red snapper possessed on a vessel that is trailered for transport to a dealer.

(v) *Approved landing locations*. Landing locations must be approved by NMFS Office for Law Enforcement prior to landing or offloading at these sites. Proposed landing locations may be submitted online via the IFQ website at *ifq.sero.nmfs.noaa.gov*, or by calling IFQ Customer Service at 1–866–425–7627, at any time, however, new landing locations will be approved only at the end of each calendar-year quarter. To have a landing location approved by the end of the calendar-year quarter, it must be submitted at least 45 days before the end of the calendar-year quarter. NMFS will evaluate the proposed sites based on, but not limited to, the following criteria:

(A) Landing locations must be publicly accessible by land and water, and

(B) They must have a street address. If there is no street address on record for a particular landing location, global positioning system (GPS) coordinates for an identifiable geographic location must be provided.

(4) Transfer of IFQ shares and allocation. Until January 1, 2012, IFQ shares and allocations can be transferred only to a person who holds a valid commercial vessel permit for Gulf reef fish; thereafter, IFQ shares and allocations can be transferred to any U.S. citizen or permanent resident alien.

However, a valid commercial permit for Gulf reef fish, a Gulf red snapper IFQ vessel account, and Gulf red snapper IFQ allocation are required to possess (at and after the time of the advance notice of landing), land or sell Gulf red snapper subject to this IFQ program.

(i) *Share transfers*. Share transfers are permanent, i.e., they remain in effect until subsequently transferred. Transfer of shares will result in the corresponding allocation being automatically transferred to the person receiving the transferred share beginning with the fishing year following the year the transfer occurred. However, within the fishing year the share transfer occurs, transfer of shares and associated allocation are independent--unless the associated allocation is transferred separately, it remains with the transferor for the duration of that fishing year. A share transfer transaction that remains in pending status, i.e., has not been completed and verified with a transaction approval code, after 30 days from the date the shareholder initiated the transfer will be cancelled, and the pending shares will be re-credited to the shareholder who initiated the transfer.

(ii) *Share transfer procedures*. Share transfers must be accomplished online via the IFQ website. An IFQ shareholder must initiate a share transfer request by logging onto the IFQ website at *ifq.sero.nmfs.noaa.gov*. Following the instructions provided on the website, the shareholder must enter pertinent information regarding the transfer request including, but not limited to, amount of shares to be transferred, which must be a minimum of 0.0001 percent; name of the eligible transferee; and the value of the transferred shares. An IFQ shareholder who is subject to a sanction under 15 CFR part 904 is prohibited from initiating a share transfer. An IFQ shareholder who is subject to a pending sanction under 15 CFR part 904 must disclose in writing to the prospective transferee the existence of any pending sanction at the time of the transfer. For the first 5 years this IFQ program is in effect, an eligible transferee is a person who has a valid commercial vessel permit for Gulf reef fish; is in compliance with all reporting requirements for the Gulf reef fish fishery and the red snapper IFQ program; is not subject to sanctions under 15 CFR part 904; and who would not be in violation of the share cap as specified in paragraph (c)(6) of this section. Thereafter, share transferee eligibility will be extended to include U.S. citizens and permanent resident aliens who are otherwise in compliance with the provisions of this section. The online system will verify the transfer information entered. If the information is not accepted, the online system will send the shareholder an electronic message explaining the reason(s) why the transfer request can not be completed. If the information is accepted, the online system will send the transferee an electronic message of the pending transfer. The transferee must approve the share transfer by electronic signature. If the transferee approves the share transfer, the online system will send a transaction approval code to both the transferor and transferee confirming the transaction. All share transfers must be completed and the transaction approval code received prior to December 31 at 6 p.m. eastern time each year.

(iii) *Allocation transfers*. An allocation transfer is valid only for the remainder of the fishing year in which it occurs; it does not carry over to the subsequent fishing year. Any allocation that is unused at the end of the fishing year is void. Allocation may be transferred to a vessel account from any IFQ account. Allocation held in a vessel account, however, may only be transferred back to the IFQ account through which the vessel account was established.

(iv) *Allocation transfer procedures*. Allocation transfers must be accomplished online via the IFQ website. An IFQ account holder must initiate an allocation transfer by logging onto the IFQ website at *ifq.sero.nmfs.noaa.gov*, entering the required information, including but not limited to, name of an eligible transferee and amount of IFQ allocation to be transferred and price, and submitting the transfer electronically. An IFQ allocation holder who is subject to a sanction under 15 CFR part 904 is prohibited from initiating an allocation transfer. An IFQ allocation holder who is subject to a pending sanction under 15 CFR part 904 must disclose in writing to the prospective transferee the existence of any pending sanction at the time of the transfer. If the transfer is approved, the online system will provide a transaction approval code to the transferor and transferee confirming the transaction.

(5) *Restricted transactions during the 12-hour online maintenance window*. All electronic IFQ transactions must be completed by December 31 at 6 p.m. eastern time each year. Electronic IFQ functions will resume again on January 1 at 6 a.m. eastern time the following fishing year. The remaining 6 hours prior to the end of the fishing year, and the 6 hours at the beginning of the next fishing year, are necessary to provide NMFS time to reconcile IFQ accounts, adjust allocations for the upcoming year if the commercial quotas for Gulf red snapper have changed, and update shares and allocations for the upcoming fishing year. No electronic IFQ transactions will be available during these 12 hours. An advance notice of landing may still be submitted during the 12-hour maintenance window by calling IFQ Customer Service at 1–866–425–7627.

(6) *IFQ share cap*. No person, including a corporation or other entity, may individually or collectively hold IFQ shares in excess of 6.0203 percent of the total shares. For the purposes of considering the share cap, a corporation's total IFQ share is determined by adding the applicable IFQ shares held by the corporation and any other IFQ shares held by a corporation(s) owned by the original corporation prorated based on the level of ownership. An individual's total IFQ share is determined by adding the applicable IFQ shares held by the individual and the applicable IFQ shares equivalent to the corporate share the individual holds in a corporation. Initially, a corporation must provide the RA the identity of the shareholders of the corporation and their percent of shares in the corporation, and provide updated information to the RA within 30 days of when changes occur. This information must also be provided to the RA any time a commercial vessel permit for Gulf reef fish is renewed or transferred.

(7) *Redistribution of shares resulting from permanent permit or endorsement revocation*. If a shareholder's commercial vessel permit for Gulf reef fish has been permanently revoked under provisions of 15 CFR part 904, the RA will redistribute the IFQ shares held by that shareholder proportionately among remaining shareholders (subject to cap restrictions) based upon the amount of shares each held just prior to the redistribution. During December of each year, the RA will determine the amount of revoked shares, if any, to be redistributed, and the shares will be distributed at the beginning of the subsequent fishing year.

(8) *Annual recalculation and notification of IFQ shares and allocation*. On or about January 1 each year, IFQ shareholders will be notified, via the IFQ website at *ifq.sero.nmfs.noaa.gov*, of their IFQ share and allocation for the upcoming fishing year. These updated share values will reflect the results of applicable share transfers and any redistribution of shares (subject to cap restrictions) resulting from permanent revocation of

applicable permits under 15 CFR part 904. Allocation is calculated by multiplying IFQ share times the annual red snapper commercial quota. Updated allocation values will reflect any change in IFQ share, any change in the annual commercial quota for Gulf red snapper, and any debits required as a result of prior fishing year overages as specified in paragraph (c)(1)(ii) of this section. IFQ participants can monitor the status of their shares and allocation throughout the year via the IFQ website.

7. Section 622.20 is added to subpart B to read as follows:

§ 622.20 Individual fishing quota (IFQ) program for Gulf groupers and tilefishes.

(a) *General*. This section establishes an IFQ program for the commercial components of the Gulf reef fish fishery for groupers (including DWG, red grouper, gag, and other SWG) and tilefishes (including goldface tilefish, blackline tilefish, anchor tilefish, blueline tilefish, and tilefish). For the purposes of this IFQ program, DWG includes yellowedge grouper, misty grouper, warsaw grouper, snowy grouper, and speckled hind, and scamp, but only as specified in paragraph (b)(2)(vi) of this section. For the purposes of this IFQ program, other SWG includes black grouper, scamp, yellowfin grouper, rock hind, red hind, and yellowmouth grouper, and warsaw grouper and speckled hind, but only as specified in paragraph (b)(2)(v) of this section. Under the IFQ program, the RA initially will assign eligible participants IFQ shares, in five share categories. These IFQ shares are equivalent to a percentage of the annual commercial quotas for DWG, red grouper, gag, and tilefishes, and the annual commercial catch allowance (meaning the SWG quota minus gag and red grouper) for other SWG species, based on their applicable historical landings. Shares determine the amount of IFQ allocation for Gulf groupers and tilefishes, in pounds gutted weight, a shareholder is initially authorized to possess, land, or sell in a given calendar year. Shares and annual IFQ allocation are transferable. See § 622.4(a)(2)(ix) regarding a requirement for a vessel landing groupers or tilefishes subject to this IFQ program to have an IFQ vessel account for Gulf groupers and tilefishes. See § 622.4(a)(4)(ii) regarding a requirement for a Gulf IFQ dealer endorsement. Details regarding eligibility, applicable landings history, account setup and transaction requirements, constraints on transferability, and other provisions of this IFQ system are provided in the following paragraphs of this section.

(1) *Scope*. The provisions of this section apply to Gulf groupers and tilefishes in or from the Gulf EEZ and, for a person aboard a vessel with an IFQ vessel account for Gulf groupers and tilefishes as required by § 622.4(a)(2)(ix) or for a person with a Gulf IFQ dealer endorsement as required by § 622.4(a)(4)(ii), these provisions apply to Gulf groupers and tilefishes regardless of where harvested or possessed.

(2) *Duration*. The IFQ program established by this section will remain in effect until it is modified or terminated; however, the program will be evaluated by the Gulf of Mexico Fishery Management Council every 5 years.

(3) *Electronic system requirements*. (i) The administrative functions associated with this IFQ program, e.g., registration and account setup, landing transactions, and transfers, are designed to be accomplished online; therefore, a participant must have access to a computer and Internet access and must set up an appropriate IFQ online account to participate. The computer must have browser software installed, e.g. Internet Explorer, Netscape, Mozilla Firefox; as well as the software Adobe Flash Player version 9.0 or greater, which may be downloaded from the Internet for free. Assistance with online functions is available from IFQ Customer Service by calling 1–866–425–7627 Monday through Friday between 8 a.m. and 4:30 p.m. eastern time.

(ii) The RA will mail initial shareholders and dealers with Gulf reef fish dealer permits information and instructions pertinent to setting up an IFQ online account. Other eligible persons who desire to become IFQ participants by purchasing IFQ shares or allocation or by obtaining a Gulf IFQ dealer endorsement must first contact IFQ Customer Service at 1–866–425–7627 to obtain information necessary to set up the required IFQ online account. Each IFQ participant must monitor his/her online account and all associated messages and comply with all IFQ online reporting requirements.

(iii) During catastrophic conditions only, the IFQ program provides for use of paper-based components for basic required functions as a backup. The RA will determine when catastrophic conditions exist, the duration of the catastrophic conditions, and which participants or geographic areas are deemed affected by the catastrophic conditions. The RA will provide timely notice to affected participants via publication of notification in the **Federal Register**, NOAA weather radio, fishery bulletins, and other appropriate means and will authorize the affected participants' use of paper-based components for the duration of the catastrophic conditions. NMFS will provide each IFQ dealer the necessary paper forms, sequentially coded, and instructions for submission of the forms to the RA. The paper forms will also be available from the RA. The program functions available to participants or geographic areas deemed affected by catastrophic conditions will be limited under the paper-based system. There will be no mechanism for transfers of IFQ shares or allocation under the paper-based system in effect during catastrophic conditions. Assistance in complying with the requirements of the paper-based system will be available via IFQ Customer Service 1–866–425–7627 Monday through Friday between 8 a.m. and 4:30 p.m. eastern time.

(b) *Procedures for initial implementation*—(1) *Determination of eligibility for initial IFQ shares*. To be eligible as an initial IFQ shareholder a person must posses a valid commercial Gulf reef fish permit as of October 1, 2009. NMFS' permit records are the sole basis for determining eligibility for the IFQ program for Gulf groupers and tilefishes based on permit history. No more than one initial eligibility will be granted based upon a given commercial vessel permit for Gulf reef fish.

(2) *Calculation of initial IFQ shares and allocation*—(i) *IFQ shares*. The RA will calculate initial IFQ shares based on the highest average annual landings of Gulf groupers and tilefishes, in each of five share categories, associated with each shareholder's current commercial vessel permit for Gulf reef fish during the applicable landings history. The five share categories are gag, red grouper, DWG, other SWG, and tilefishes. The applicable landings history for reef fish permit holders with grouper or tilefish landings includes landings data from 1999 through 2004 with the allowance for dropping one year. All grouper and tilefish landings associated with a current reef fish permit for the applicable landings history, including those reported by a person(s) who held the license prior to the current license owner, will be attributed to the current license owner. Only legal landings reported in compliance with applicable state and Federal regulations will be accepted. For each share category, each shareholder's initial share is derived by dividing the shareholder's highest average annual landings during the applicable landings history by the sum of the highest average annual landings of all shareholders during the respective applicable landings histories. Initial shares distributed in the gag share

category and the other SWG share category will be based on landings that have been adjusted for gag and/or black grouper misidentification. Initial IFQ shares will not be issued in units less than the percentage equivalent to 1.0 lb (0.45 kg) of the grouper or tilefish species, in each share category, based on that share category's quota or catch allowance.

(ii) *Initial share set-aside to accommodate resolution of appeals.* During the first year of implementation of this IFQ program only, for each share category, the RA will reserve a 3–percent IFQ share prior to the initial distribution of shares, to accommodate resolution of appeals, if necessary. Any portion of the 3–percent share set-aside for each share category remaining after the appeals process is completed will be distributed as soon as possible among initial shareholders in direct proportion to the percentage share each was initially allocated. If resolution of appeals requires more than a 3–percent share set-aside for a share category, the shares of all initial shareholders, for that share category, would be reduced accordingly in direct proportion to the percentage share each was initially allocated.

(iii) *IFQ allocation.* IFQ allocation is the amount of Gulf groupers and tilefishes, in pounds gutted weight, an IFQ shareholder or allocation holder is authorized to possess, land, or sell during a given fishing year. IFQ allocation for the five respective share categories is derived at the beginning of each year by multiplying a shareholder's IFQ share times the annual commercial quota for gag, red grouper, DWG, and tilefishes; and times the annual commercial catch allowance for other SWG.

(iv) *Red grouper and gag multi-use allocation*—(A) *Red grouper multi-use allocation.* At the beginning of each fishing year, 4 percent of each shareholder's initial red grouper allocation will be converted to red grouper multi-use allocation. Red grouper multi-use allocation may be used to possess, land, or sell either red grouper or gag under certain conditions. Red grouper multi-use allocation may be used to possess, land, or sell red grouper only after an IFQ account holder's (shareholder or allocation holder's) red grouper allocation has been landed and sold, or transferred; and to possess, land, or sell gag, only after both gag and gag multi-use allocation have been landed and sold, or transferred.

(B) *Gag multi-use allocation.* At the beginning of each fishing year, 8 percent of each shareholder's initial gag allocation will be converted to gag multi-use allocation. Gag multi-use allocation may be used to possess, land, or sell either gag or red grouper under certain conditions. Gag multi-use allocation may be used to possess, land, or sell gag only after an IFQ account holder's gag allocation has been landed and sold, or transferred; and possess, land or sell red grouper, only after both red grouper and red grouper multi-use allocation have been landed and sold, or transferred. Multi-use allocation transfer procedures and restrictions are specified in paragraph (c)(4)(iv) of this section.

(v) *Warsaw grouper and speckled hind classification.* Warsaw grouper and speckled hind are considered DWG species and under certain circumstances SWG species. For the purposes of the IFQ program for Gulf groupers and tilefishes, once all of an IFQ account holder's DWG allocation has been landed and sold, or transferred, or if an IFQ account holder has no DWG allocation, then other SWG allocation may be used to land and sell warsaw grouper and speckled hind.

(vi) *Scamp classification.* Scamp is considered a SWG species and under certain circumstances a DWG. For the purposes of the IFQ program for Gulf groupers and tilefishes, once all of an IFQ account holder's other SWG allocation has been landed and sold, or transferred, or if an IFQ account holder has no SWG allocation, then DWG allocation may be used to land and sell scamp.

(3) *Shareholder notification regarding landings history, initial determination of IFQ shares and allocations, and IFQ account setup information.* (i) On or about October 1, 2009, the RA will mail each Gulf reef fish commercial vessel permittee with grouper and tilefish landings history during the qualifying years, information pertinent to the IFQ program. This information will include—

(A) Gulf grouper and tilefish landings associated with the Gulf reef fish commercial vessel permit during each year of the applicable landings history;

(B) The highest average annual grouper and tilefish landings, in each of the five share categories, based on the permittee's best 5 out of 6 years of applicable landings history;

(C) The permittee's initial IFQ share, in each of the five share categories, based on the highest average annual landings associated with the permittee's best 5 out of 6 years of applicable landings history;

(D) The initial IFQ allocation, in each of the five share categories, as well as their total IFQ allocation;

(E) Instructions for appeals;

(F) General instructions regarding procedures related to the IFQ online system, including how to set up an online account; and

(G) A user identification number; and a personal identification number (PIN) that will be provided in a subsequent letter.

(ii) The RA will provide this information, via certified mail return receipt requested, to the permittee's address of record as listed in NMFS' permit files. A permittee who does not receive such notification from the RA, must contact the RA by November 1, 2009, to clarify eligibility status and landings and initial share information.

(iii) The initial share information provided by the RA is based on the highest average annual landings during the best 5 out of 6 years associated with the permittee's applicable landings history for each share category; however, a permittee may select to exclude a different year of landings history than was chosen, consistent with the permittee's applicable landings history, for the calculation of the initial IFQ share. The permittee must submit that information to the RA postmarked no later than December 1, 2009. If alternative years, consistent with the applicable landings history, are selected, revised information regarding shares and allocations will be posted on the online IFQ accounts no later than January 1, 2010. A permittee who disagrees with the landings or eligibility information provided by the RA may appeal the RA's initial determinations.

(4) *Procedure for appealing IFQ eligibility and/or landings information.* The only items subject to appeal under this IFQ system are initial eligibility for IFQ shares based on ownership of a reef fish permit, the accuracy of the amount of landings, correct assignment of landings to the permittee, and correct assignment of gag versus black grouper landings. Appeals based on hardship factors will not be considered. Appeals must be submitted to the RA postmarked no later than April 1, 2010, and must contain documentation supporting the basis for the appeal. The RA will review all appeals, render final decisions on the appeals, and advise the appellant of the final decision.

(i) *Eligibility appeals.* NMFS' records of reef fish permits are the sole basis for determining ownership of such permits. A person who believes he/she meets the permit eligibility criteria based on ownership of a vessel under a different name, as may have occurred when ownership has changed from individual to corporate or vice versa, must document his/her continuity of ownership.

(ii) *Landings appeals*. Appeals regarding landings data for 1999 through 2004 will be based on NMFS' logbook records. If NMFS' logbooks are not available, the RA may use state landings records or data that were submitted in compliance with applicable Federal and state regulations, on or before December 31, 2006.

(5) *Dealer notification and IFQ account setup information*. On or about October 1, 2009, the RA will mail each dealer with a valid Gulf reef fish dealer permit information pertinent to the IFQ program. Any such dealer is eligible to receive a Gulf IFQ dealer endorsement, which can be downloaded from the IFQ website at *ifq.sero.nmfs.noaa.gov* once an IFQ account has been established. The information package will include general information about the IFQ program and instructions for accessing the IFQ website and establishing an IFQ dealer account.

(c) *IFQ operations and requirements*—(1) *IFQ Landing and transaction requirements*. (i) Gulf groupers and tilefishes subject to this IFQ program can only be possessed or landed by a vessel with a IFQ vessel account for Gulf groupers and tilefishes. Such groupers and tilefishes can only be received by a dealer with a Gulf IFQ dealer endorsement. The vessel landing groupers or tilefishes must have sufficient IFQ allocation in the IFQ vessel account, at least equal to the pounds in gutted weight of grouper or tilefish species to be landed, from the time of advance notice of landing through landing, except as provided in paragraph (c)(1)(ii) of this section.

(ii) A person on board a vessel with an IFQ vessel account landing the shareholder's only remaining allocation from among any of the grouper or tilefish share categories, can legally exceed, by up to 10 percent, the shareholder's allocation remaining on that last fishing trip of the fishing year, i.e. a one-time per fishing year overage. Any such overage will be deducted from the shareholder's applicable allocation for the subsequent fishing year. From the time of the overage until January 1 of the subsequent fishing year, the IFQ shareholder must retain sufficient shares to account for the allocation that will be deducted the subsequent fishing year. Share transfers that would violate this requirement will be prohibited.

(iii) The dealer is responsible for completing a landing transaction report for each landing and sale of Gulf groupers and tilefishes via the IFQ website at ifq.sero.nmfs.noaa.gov at the time of the transaction in accordance with reporting form and instructions provided on the website. This report includes, but is not limited to, date, time, and location of transaction; weight and actual ex-vessel value of groupers and tilefishes landed and sold; and information necessary to identify the fisherman, vessel, and dealer involved in the transaction. The fisherman must validate the dealer transaction report by entering the unique PIN number for the vessel account when the transaction report is submitted. After the dealer submits the report and the information has been verified by NMFS, the online system will send a transaction approval code to the dealer and the allocation holder.

(iv) If there is a discrepancy regarding the landing transaction report after approval, the dealer or vessel account holder (or his or her authorized agent) may initiate a landing transaction correction form to correct the landing transaction. This form is available via the IFQ website at *ifq.sero.nmfs.noaa.gov*. Both parties must validate the landing correction form by entering their respective PIN numbers, i.e. vessel account PIN or dealer account PIN. The dealer must then print out the form, both parties must sign it, and the form must be mailed to NMFS. The form must be received by NMFS no later than 15 days after the date of the initial landing transaction.

(2) *IFQ cost recovery fees*. As required by section 304(d)(2)(A)(i) of the Magnuson-Stevens Act, the RA will collect a fee to recover the actual costs directly related to the management and enforcement of the IFQ program for Gulf groupers and tilefishes. The fee cannot exceed 3 percent of the ex-vessel value of Gulf groupers and tilefishes landed under the IFQ program. Such fees will be deposited in the Limited Access System Administration Fund (LASAF). Initially, the fee will be 3 percent of the actual ex-vessel value of Gulf groupers and tilefishes landed under the IFQ program, as documented in each landings transaction report. The RA will review the cost recovery fee annually to determine if adjustment is warranted. Factors considered in the review include the catch subject to the IFQ cost recovery, projected ex-vessel value of the catch, costs directly related to the management and enforcement of the IFQ program, the projected IFQ balance in the LASAF, and expected non-payment of fee liabilities. If the RA determines that a fee adjustment is warranted, the RA will publish a notification of the fee adjustment in the **Federal Register**.

(i) *Payment responsibility*. The IFQ account holder specified in the documented IFQ landing transaction report for Gulf groupers and tilefishes is responsible for payment of the applicable cost recovery fees.

(ii) *Collection and submission responsibility*. A dealer who receives Gulf groupers or tilefishes subject to the IFQ program is responsible for collecting the applicable cost recovery fee for each IFQ landing from the IFQ account holder specified in the IFQ landing transaction report. Such dealer is responsible for submitting all applicable cost recovery fees to NMFS on a quarterly basis. The fees are due and must be submitted, using pay.gov via the IFQ system, at the end of each calendar-year quarter, but no later than 30 days after the end of each calendar-year quarter. Fees not received by the deadline are delinquent.

(iii) *Fee payment procedure*. For each IFQ dealer, the IFQ system will post, in individual IFQ dealer accounts, an end-of-quarter statement of cost recovery fees that are due. The dealer is responsible for submitting the cost recovery fee payments using pay.gov via the IFQ system. Authorized payment methods are credit card, debit card, or automated clearing house (ACH). Payment by check will be authorized only if the RA has determined that the geographical area or an individual(s) is affected by catastrophic conditions.

(iv) *Fee reconciliation process—delinquent fees*. The following procedures apply to an IFQ dealer whose cost recovery fees are delinquent.

(A) On or about the 31st day after the end of each calendar-year quarter, the RA will send the dealer an electronic message via the IFQ website and official notice via mail indicating the applicable fees are delinquent, and the dealer's IFQ account has been suspended pending payment of the applicable fees.

(B) On or about the 91st day after the end of each calendar-year quarter, the RA will refer any delinquent IFQ dealer cost recovery fees to the appropriate authorities for collection of payment.

(3) *Measures to enhance IFQ program enforceability—(i) Advance notice of landing*. For the purpose of this paragraph, landing means to arrive at a dock, berth, beach, seawall, or ramp. The owner or operator of a vessel landing IFQ groupers or tilefishes is responsible for ensuring that NMFS is contacted at least 3 hours, but no more than 12 hours, in advance of landing to report the time and location of landing, estimated grouper and tilefish landings in pounds gutted weight for each share category (gag, red grouper, DWG, other SWG, tilefishes), vessel identification number (Coast Guard registration number or state registration number), and the name and address of the IFQ

dealer where the groupers or tilefishes are to be received. The vessel landing groupers or tilefishes must have sufficient IFQ allocation in the IFQ vessel account, and in the appropriate share category or categories, at least equal to the pounds in gutted weight of all groupers and tilefishes on board (except for any overage up to the 10 percent allowed on the last fishing trip) from the time of the advance notice of landing through landing. Authorized methods for contacting NMFS and submitting the report include calling NMFS at 1–866–425–7627, completing and submitting to NMFS the notification form provided through the VMS unit, or providing the required information to NMFS through the web-based form available on the IFQ website at *ifq.sero.nmfs.noaa.gov*. As new technology becomes available, NMFS will add other authorized methods for complying with the advance notification requirement, via appropriate rulemaking. Failure to comply with this advance notice of landing requirement is unlawful and will preclude authorization to complete the landing transaction report required in paragraph (c)(1)(iii) of this section and, thus, will preclude issuance of the required transaction approval code.

(ii) *Time restriction on offloading*. IFQ groupers and tilefishes may be offloaded only between 6 a.m. and 6 p.m., local time.

(iii) *Restrictions on transfer of IFQ groupers and tilefishes*. At-sea or dockside transfer of IFQ groupers or tilefishes from one vessel to another vessel is prohibited.

(iv) *Requirement for transaction approval code*. If IFQ groupers or tilefishes are offloaded to a vehicle for transportation to a dealer or are on a vessel that is trailered for transport to a dealer, on-site capability to accurately weigh the fish and to connect electronically to the online IFQ system to complete the transaction and obtain the transaction approval code is required. After a landing transaction has been completed, a transaction approval code verifying a legal transaction of the amount of IFQ groupers and tilefishes in possession and a copy of the dealer endorsement must accompany any IFQ groupers and tilefishes from the landing location through possession by a dealer. This requirement also applies to IFQ groupers and tilefishes possessed on a vessel that is trailered for transport to a dealer.

(v) *Approved landing locations*. Landing locations must be approved by NMFS Office for Law Enforcement prior to landing or offloading at these sites. Proposed landing locations may be submitted online via the IFQ website at *ifq.sero.nmfs.noaa.gov*, or by calling IFQ Customer Service at 1–866–425–7627, at any time, however, new landing locations will be approved only at the end of each calendar-year quarter. To have your landing location approved by the end of the calendar-year quarter, it must be submitted at least 45 days before the end of the calendar-year quarter. NMFS will evaluate the proposed sites based on, but not limited to, the following criteria:

(A) Landing locations must be publicly accessible by land and water, and

(B) They must have a street address. If there is no street address on record for a particular landing location, global positioning system (GPS) coordinates for an identifiable geographic location must be provided.

(4) *Transfer of IFQ shares and allocation*. Until January 1, 2015, IFQ shares and allocations can be transferred only to a person who holds a valid commercial vessel permit for Gulf reef fish; thereafter, IFQ shares and allocations can be transferred to any U.S. citizen or permanent resident alien. However, a valid commercial permit for Gulf reef fish, an IFQ vessel account for Gulf groupers and tilefishes, and IFQ allocation for Gulf groupers or tilefishes are required to possess (at and after the time of the advance notice of landing), land or sell Gulf groupers or tilefishes subject to this IFQ program.

(i) *Share transfers*. Share transfers are permanent, i.e., they remain in effect until subsequently transferred. Transfer of shares will result in the corresponding allocation being automatically transferred to the person receiving the transferred share beginning with the fishing year following the year the transfer occurred. However, within the fishing year the share transfer occurs, transfer of shares and associated allocation are independent--unless the associated allocation is transferred separately, it remains with the transferor for the duration of that fishing year. A share transfer transaction that remains in pending status, i.e., has not been completed and verified with a transaction approval code, after 30 days from the date the shareholder initiated the transfer will be cancelled, and the pending shares will be re-credited to the shareholder who initiated the transfer.

(ii) *Share transfer procedures*. Share transfers must be accomplished online via the IFQ website. An IFQ shareholder must initiate a share transfer request by logging onto the IFQ website at *ifq.sero.nmfs.noaa.gov*. An IFQ shareholder who is subject to a sanction under 15 CFR part 904 is prohibited from initiating a share transfer. An IFQ shareholder who is subject to a pending sanction under 15 CFR part 904 must disclose in writing to the prospective transferee the existence of any pending sanction at the time of the transfer. Following the instructions provided on the website, the shareholder must enter pertinent information regarding the transfer request including, but not limited to: amount of shares to be transferred, which must be a minimum of 0.000001 percent; name of the eligible transferee; and the value of the transferred shares. For the first 5 years this IFQ program is in effect, an eligible transferee is a person who has a valid commercial vessel permit for Gulf reef fish; is in compliance with all reporting requirements for the Gulf reef fish fishery and the IFQ program for Gulf groupers and tilefishes; is not subject to sanctions under 15 CFR part 904; and who would not be in violation of the share or allocation caps as specified in paragraph (c)(6) of this section. Thereafter, share transferee eligibility will be extended to include U.S. citizens and permanent resident aliens who are otherwise in compliance with the provisions of this section. The online system will verify the information entered. If the information is not accepted, the online system will send the shareholder an electronic message explaining the reason(s). If the information is accepted, the online system will send the transferee an electronic message of the pending transfer. The transferee must approve the share transfer by electronic signature. If the transferee approves the share transfer, the online system will send a transfer approval code to both the shareholder and transferee confirming the transaction. All share transfers must be completed and the transaction approval code received prior to December 31 at 6 p.m. eastern time each year.

(iii) *Allocation transfers*. An allocation transfer is valid only for the remainder of the fishing year in which it occurs; it does not carry over to the subsequent fishing year. Any allocation that is unused at the end of the fishing year is void. Allocation may be transferred to a vessel account from any IFQ account. Allocation held in a vessel account, however, may only be transferred back to the IFQ account through which the vessel account was established.

(iv) *Allocation transfer procedures and restrictions*—(A) *Allocation transfer procedures*. Allocation transfers must be accomplished online via the IFQ website. An IFQ account holder must

initiate an allocation transfer by logging onto the IFQ website at *ifq.sero.nmfs.noaa.gov*, entering the required information, including but not limited to, name of an eligible transferee and amount of IFQ allocation to be transferred and price, and submitting the transfer electronically. An IFQ allocation holder who is subject to a sanction under 15 CFR part 904 is prohibited from initiating an allocation transfer. An IFQ allocation holder who is subject to a pending sanction under 15 CFR part 904 must disclose in writing to the prospective transferee the existence of any pending sanction at the time of the transfer. If the transfer is approved, the website will provide a transfer approval code to the transferor and transferee confirming the transaction.

(B) *Multi-use allocation transfer restrictions*—(*1*) *Red grouper multi-use allocation*. Red grouper multi-use allocation may only be transferred after all an IFQ account holder's red grouper allocation has been landed and sold, or transferred.

(*2*) *Gag multi-use allocation*. Gag multi-use allocation may only be transferred after all an IFQ account holder's gag allocation has been landed and sold, or transferred.

(5) *Restricted transactions during the 12-hour online maintenance window*. All electronic IFQ transactions must be completed by December 31 at 6 p.m. eastern time each year. Electronic IFQ functions will resume again on January 1 at 6 a.m. eastern time the following fishing year. The remaining 6 hours prior to the end of the fishing year, and the 6 hours at the beginning of the next fishing year, are necessary to provide NMFS time to reconcile IFQ accounts, adjust allocations for the upcoming year if the commercial quotas or catch allowances for Gulf groupers or tilefishes have changed, and update shares and allocations for the upcoming fishing year. No electronic IFQ transactions will be available during these 12 hours. An advance notice of landing may still be submitted by calling IFQ Customer Service at 1–866–425–7627.

(6) *IFQ share and allocation caps*. A corporation's total IFQ share (or allocation) is determined by adding the applicable IFQ shares (or allocation) held by the corporation and any other IFQ shares (or allocation) held by a corporation(s) owned by the original corporation prorated based on the level of ownership. An individual's total IFQ share is determined by adding the applicable IFQ shares held by the individual and the applicable IFQ shares equivalent to the corporate share the individual holds in a corporation. An individual's total IFQ allocation is determined by adding the individual's total allocation to the allocation derived from the IFQ shares equivalent to the corporate share the individual holds in a corporation.

(i) *IFQ share cap for each share category*. No person, including a corporation or other entity, may individually or collectively hold IFQ shares in any share category (gag, red grouper, DWG, other SWG, or tilefishes) in excess of the maximum share initially issued for the applicable share category to any person at the beginning of the IFQ program, as of the date appeals are resolved and shares are adjusted accordingly. A corporation must provide to the RA the identity of the shareholders of the corporation and their percent of shares in the corporation, by December 1, 2009, for initial issuance of IFQ shares and allocation, and provide updated information to the RA within 30 days of when changes occur. This information must also be provided to the RA any time a commercial vessel permit for Gulf reef fish is renewed or transferred.

(ii) *Total allocation cap*. No person, including a corporation or other entity, may individually or collectively hold, cumulatively during any fishing year, IFQ allocation in excess of the total allocation cap. The total allocation cap is the sum of the maximum allocations associated with the share caps for each individual share category and is calculated annually based on the applicable quotas or catch allowance associated with each share category.

(7) *Redistribution of shares resulting from permanent permit revocation.* If a shareholder's commercial vessel permit for Gulf reef fish has been permanently revoked under provisions of 15 CFR part 904, the RA will redistribute the IFQ shares associated with the revoked permit proportionately among remaining shareholders (subject to cap restrictions) based upon the amount of shares each held just prior to the redistribution. During December of each year, the RA will determine the amount of revoked shares, if any, to be redistributed, and the shares will be distributed at the beginning of the subsequent fishing year.

(8) *Annual recalculation and notification of IFQ shares and allocation.* On or about January 1 each year, IFQ shareholders will be notified, via the IFQ website at *ifq.sero.nmfs.noaa.gov*, of their IFQ shares and allocations, for each of the five share categories, for the upcoming fishing year. These updated share values will reflect the results of applicable share transfers and any redistribution of shares (subject to cap restrictions) resulting from permanent revocation of applicable permits under 15 CFR part 904. Allocation, for each share category, is calculated by multiplying IFQ share for that category times the annual commercial quota or commercial catch allowance for that share category. Updated allocation values will reflect any change in IFQ share for each share category, any change in the annual commercial quota or commercial catch allowance for the applicable categories; and any debits required as a result of prior fishing year overages as specified in paragraph (c)(1)(ii) of this section. IFQ participants can monitor the status of their shares and allocation throughout the year via the IFQ website.

7. In § 622.42, paragraph (a)(1)(ii) and the first sentence of paragraph (a)(1)(iii) are revised to read as follows:

§ 622.42 Quotas.

* * * * *

(a) * * *

(1) * * *

(ii) Deep-water groupers (DWG) combined -1.02 million lb (0.46 million kg), gutted weight, that is, eviscerated but otherwise whole.

(iii) Shallow-water groupers (SWG) have a combined quota as specified in paragraph (a)(1)(iii)(A) of this section. * * *

* * * * *

§ 622.44 [Amended]

7. In § 622.44, paragraph (g) is removed and reserved.

[FR Doc. E9–9546 Filed 4–29–09; 8:45 am]

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Federal Register

Thursday,
April 30, 2009

Part IV

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 218

Taking and Importing Marine Mammals; U.S. Naval Surface Warfare Center Panama City Division Mission Activities; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 218

RIN 0648–AW80

Taking and Importing Marine Mammals; U.S. Naval Surface Warfare Center Panama City Division Mission Activities

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS has received a request from the U.S. Navy (Navy) for authorization to take marine mammals incidental to Naval Surface Warfare Center Panama City Division (NSWC PCD) Research, Development, Test, and Evaluation (RDT&E) mission activities for the period of July 2009 through July 2014. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is proposing regulations to govern that take and requesting information, suggestions, and comments on these proposed regulations.

DATES: Comments and information must be received no later than June 1, 2009.

ADDRESSES: You may submit comments, identified by 0648–AW80, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov*
- Hand delivery or mailing of paper, disk, or CD–ROM comments should be addressed to Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225.

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.

FOR FURTHER INFORMATION CONTACT: Shane Guan, Office of Protected Resources, NMFS, (301) 713–2289, ext. 137.

SUPPLEMENTARY INFORMATION:

Availability

A copy of the Navy's application may be obtained by writing to the address specified above (See **ADDRESSES**), telephoning the contact listed above (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.* The Navy's Draft Environmental Impact Statement (DEIS) for the NSWC PCD mission activities was published on April 4, 2008, and may be viewed at *http://nswcpc.navsea.navy.mil/Environment-Documents.htm.* NMFS participated in the development of the Navy's DEIS as a cooperating agency under the National Environmental Policy Act (NEPA).

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) during periods of not more than five consecutive years each if certain findings are made and regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as:

> An impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The National Defense Authorization Act of 2004 (NDAA) (Public Law 108–136) removed the ''small numbers'' and ''specified geographical region'' limitations and amended the definition of ''harassment'' as it applies to a ''military readiness activity'' to read as follows (Section 3(18)(B) of the MMPA):

> (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A Harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B Harassment].

Summary of Request

On April 1, 2008, NMFS received an application, which was subsequently amended on February 12, 2009 with additional information, from the Navy requesting authorization for the take of 10 species of cetaceans incidental to the NSWC PCD RDT&E mission activities over the course of 5 years. These RDT&E activities are classified as military readiness activities. The Navy states that these RDT&E activities may cause various impacts to marine mammal species in the proposed action area (e.g., mortality, Level A and B harassment). The Navy requests an authorization to take individuals of these cetacean species by Level B Harassment. Further, the Navy requests authorization to take 2 bottlenose dolphins, 2 Atlantic spotted dolphins, 1 pantropical spotted dolphin, and 1 spinner dolphin per year by Level A harassment (injury), as a result of the proposed mission activities. Please refer to Tables 6–3, 6–4, 6–6, 6–7, 6–8, and 6–9 of the Letter of Authorization (LOA) Addendum for detailed information of the potential marine mammal exposures from the NSWC PCD mission activities per year. However, due to the proposed mitigation and monitoring measures, NMFS estimates that the take of marine mammals is likely to be lower than the amount requested. Although the Navy requests authorization to take marine mammals by mortality, NMFS does not expect any animals to be killed, and NMFS is not proposing to authorize any mortality incidental to the Navy's NSWC PCD mission activities.

Background of Navy Request

The purpose of the proposed action is to enhance NSWC PCD's capability and capacity to meet littoral and expeditionary warfare requirements by providing RDT&E and in service engineering for expeditionary maneuver warfare, operations in extreme environments, mine warfare, maritime operations, and coastal operations.

The need for the proposed action is for the Navy to successfully meet current and future national and global defense challenges by developing a robust capability to research, develop, test, and evaluate systems within the NSWC PCD Study Area. This capability allows the Navy to meet its statutory

mission to deploy worldwide naval forces equipped to meet existing and emergent threats and to enhance its ability to operate jointly with other components of the armed forces. NSWC PCD was established on the current site maintained by the Naval Support Activity Panama City (NSA PC) after a thorough site selection process in 1942. The Navy considered locations along the east coast and in the Gulf of Mexico (GOM). NSWC PCD provides:

- Accessibility to deep water
- Tests in clear water
- Conducive sand bottom
- Available land and sheltered areas, and
- Average good weather (year-round testing).

In addition to these requirements for testing, the area was selected based on the moderate cost of living, the availability of personnel, and the low level of crowding from industries and development. In 1945, the station was re-commissioned as the U.S. Navy mine countermeasure station after its turnover as a section base for amphibious forces in 1944. The factors identified in 1942 during the selection process solidified the decision.

NSWC PCD provides the greatest number of favorable circumstances needed to conduct RDT&E, in particular mine countermeasure exercises. Many of the other locations have large amounts of vessel traffic, rough waters and windy conditions, and closure of waterways seasonally due to water level. NSWC PCD has the established infrastructure, equipment, and personnel as well as the conditions required to fulfill the Proposed Action.

The proposed mission activities involving sonar, ordnance and line charges, and projectile firing would occur in the NSWC PCD Study Area, which includes St. Andrew Bay (SAB) and military warning areas (areas within the Gulf of Mexico (GOM) subject to military operations) W–151 (includes Panama City Operating Area), W–155 (includes Pensacola Operating Area), and W–470 (see Figures 2–1 and 2–2 of the LOA application). The NSWC PCD Study Area includes a Coastal Test Area, a Very Shallow Water Test Area, and Target and Operational Test Fields. The NSWC PCD RDT&E activities may be conducted anywhere within the existing military operating areas and SAB from the mean high water line (average high tide mark) out to 222 km (120 nm) offshore (see Figures 2–1 and 2–2 of the LOA application). The locations and environments include:

- Test area control sites adjacent to NSWC PCD.
- Wide coastal shelf 97 km (52 nm) distance offshore to 183 m (600 ft), including bays and harbors.
- Water temperature range of 27 °C (80 °F) in summer to 10 °C (50°F) in winter.
- Typically sandy bottom and good underwater visibility.
- Seas less than 0.91 m (3 ft) 80 percent of the time (summer) and less than 0.91 m (3 ft) 50 percent of the time (winter).

Description of the Specified Activities

The purpose of the proposed action is to improve NSWC PCD's capabilities to conduct new and increased mission operations for the Department of the Navy (DON). NSWC PCD provides RDT&E and in-service support for expeditionary maneuver warfare, operations in extreme environments, mine warfare, maritime (ocean-related) operations, and coastal operations. A variety of naval assets, including vessels, aircraft, and underwater systems support these mission activities for eight primary test operations that occur within or over the water environment up to the high water mark. These operations include air, surface, and subsurface operations, sonar, electromagnetic energy, laser, ordnance, and projectile firing. Among these activities, surface operations, sonar, ordnance, and projectile firing may result in the incidental take of a marine mammal species or population stock, and are the focus of the Navy's LOA application and LOA Addendum. A detailed description of these operations is provided below.

Surface Operations

The proposed NSWC PCD mission activities include up to 7,443 hours of surface operations per year in the NSWC PCD Study Area. Four subcategories make up surface operations.

The first subcategory is support activities which are required by nearly all of the testing missions within the NSWC PCD Study Area. The size of these vessels varies according to test requirements and vessel availability. Often multiple surface crafts are required to support a single test event. Acting as a support platform for testing, these vessels are utilized to carry test equipment and personnel to and from the test sites and are also used to secure and monitor the designated test area. Normally, these vessels remain on site and return to port following the completion of the test; occasionally, however, they remain on-station throughout the duration of the test cycle for guarding sensitive equipment in the water. Testing associated with these operational capabilities may include a single test event or a series of test events spread out over consecutive days or as one long test operation that requires multiple days to complete.

The remaining subcategories of additional support include tows, deployment and recovery of equipment, and systems development. Tows are also conducted from vessels at NSWC PCD to test system functionality. Tow tests of this nature involve either transporting the system to the designated test area where it is deployed and towed over a pre-positioned inert minefield or towing the system from NSWC PCD to the designated test area. Surface vessels are also utilized as a tow platform for systems that are designed to be deployed by helicopters. Surface craft are also used to perform the deployment and recovery of underwater unmanned vehicles (UUVs), sonobuoys, inert mines, mine-like objects, versatile exercise mine systems, and other test systems. Surface vessels that are used in this manner normally return to port the same day. However, this is test dependent, and under certain circumstances (e.g., endurance testing), the vessel may be required to remain on site for an extended period of time. Finally, RDT&E activities also encompass testing of new, alternative, or upgraded hydrodynamics, and propulsion, navigational, and communication software and hardware systems.

Sonar Operations

NSWC PCD sonar operations involve the testing of various sonar systems in the ocean and laboratory environment as a means of demonstrating the systems' software capability to detect, locate, and characterize mine-like objects under various environmental conditions. The data collected is used to validate the sonar system's effectiveness and capability to meet its mission.

Based on frequency, the Navy has characterized low, mid, or high frequency sound sources as follows:

- Low frequency: Below 1 kHz
- Mid-frequency: From 1 to 10 kHz
- High frequency: Above 10 kHz

Low frequency sonar is not proposed to be used during NSWC PCD operations. The various sonar systems proposed to be tested within the NSWC PCD Study Area range in frequencies of 1 kHz to 5 megahertz (MHz) (5,000 kHz). The source levels associated with NSWC PCD sonar systems that require analysis in this document based on the systems' parameters range from between 118 dB to 235 dB re 1 microPa at 1 m. The sonar systems tested are typically part of a towed array or hull mounted

to a vessel. Additionally, subsystems associated with an underwater unmanned vehicle (UUV) or surf zone crawler operation are included. A detailed description of the frequency class and the reporting metric for each sonar system used at NSWC PCD can be found in Table A–1 of Appendix A, Supplemental Information for Underwater Noise Analysis, of the Navy's LOA application. Tables 1A and 1B present an overview of the number of operating hours annually for each of these sonar systems in territorial and non-territorial waters, respectively.

TABLE 1A—HOURS OF SONAR OPERATIONS BY REPRESENTATIVE SYSTEM FOR TERRITORIAL WATER PER YEAR

System	Annual operating hours
AN/SQS–53/56 Kingfisher	3
Sub-bottom profiler (2–9 kHz)	21
REMUS SAS–LF	12
REMUS Modem	25
Sub-bottom profiler (2–16 kHz)	24
AN/SQQ–32	30
REMUS–SAS–LF	20
SAS–LF	35
AN/WLD–1 RMS–ACL	33.5
BPAUV Sidescan	25
TVSS	15
F84Y	15
BPAUV Sidescan	25
REMUS–SAS–HF	10

TABLE 1A—HOURS OF SONAR OPERATIONS BY REPRESENTATIVE SYSTEM FOR TERRITORIAL WATER PER YEAR—Continued

System	Annual operating hours
SAS–HF	11.5
AN/AQS–20	545
AN/WLD–11 RMS Navigation	15
BPAUV Sidescan	30

TABLE 1B—HOURS OF SONAR OPERATIONS BY REPRESENTATIVE SYSTEM FOR NON-TERRITORIAL WATER PER YEAR

System	Annual operating hours
AN/SQS–53/56 Kingfisher	1
Sub-bottom profiler (2–9 kHz)	1
REMUS SAS–LF	0
REMUS Modem	12
Sub-bottom profiler (2–16 kHz)	1
AN/SQQ–32	1
REMUS–SAS–LF	0
SAS–LF	15
AN/WLD–1 RMS–ACL	5
BPAUV Sidescan	38
TVSS	16.5
F84Y	15
BPAUV Sidescan	0
REMUS–SAS–HF	25
SAS–HF	15
AN/AQS–20	15
AN/WLD–11 RMS Navigation	0

TABLE 1B—HOURS OF SONAR OPERATIONS BY REPRESENTATIVE SYSTEM FOR NON-TERRITORIAL WATER PER YEAR—Continued

System	Annual operating hours
BPAUV Sidescan	25

Table 2 provides an overall summary of the total tempos associated with the proposed action. The table includes number of hours of operation per year for mid-frequency and high-frequency sonar testing activities for territorial and non-territorial waters, respectively. The ranges for the operations are given in the column, where appropriate. For example, sonar operations are divided into mid-frequency and high-frequency ranges. The three columns to the left of the double vertical line contain the amount of operations for each subcategory conducted in territorial waters of the NSWC PCD Study Area. The values to the right of this demarcation, except those contained in the last column of the table, indicate the number of hours and/or operations that would occur in the non-territorial waters. The final column provides the total number of hours per year and/or operations in the NSWC PCD Study Area (or tempo in the territorial waters plus tempo in the non-territorial waters).

Table 2. Description of NSWC PCD Proposed Action

	Territorial Waters							Non-Territorial Waters							Total
Sonar Ops (hrs/yr)	Mid (1-10 kHz)				High (>10 kHz)			Mid (1-10 kHz)					High (>10 kHz)		Hrs/yr
	73				822			4					455		1,354*
Ordnance Ops (dets/yr) (line/yr)	Detonations							Detonations							Item/yr
	Range 1 (0-10 lb) (dets/yr)		Range 2 (11-75 lb) (dets/yr)		Range 3 (76-600 lb) (dets/yr)			Range 1 (0-10 lb) (dets/yr)		Range 2 (11-75 lb) (dets/yr)		Range 3 (76-600 lb) (dets/yr)			Item/yr
	51		3		0			0		0		16			70
	Line charges**							Line charges**							Item/yr
	3							0							3
Projectile firing (rnds/yr)	5 in	40 mm	30 mm	20 mm	76 mm	25 mm	Small arms	5 in	40 mm	30 mm	20 mm	76 mm	25 mm	Small arms	Item/yr
	0	0	0	0	0	0	0	60	480	600	2,967	240	525	6,000	10,872

dets = detonations; hrs = hours; lb = pounds; rnds = rounds; ops = operations; yr = year; kHz = kilohertz; kg = kilogram

*An additional 150 hours (144 territorial hrs/6 non-territorial hours) for jamming and mechanical minesweeping devices occurring over broad frequency ranges are not included in this estimate. These systems were not included in the analysis because no power source is used to generate the acoustic output and the mechanical device generates the acoustic output similar to Navy vessels. Movement of vessels through the water is not associated with acoustic impact on marine mammals; mechanical devices would not affect marine mammals.

**Line charges = 794 kg (1,750 lb) net explosive weight, which is evenly distributed along a 107-m (350-ft) detonation cord.

Ordnance Operations

Ordnance operations include live testing of ordnance of various net explosive weights and line charges. The following subsections provide an overview of the events for ordnance and line charges, respectively.

1. Ordnance

Live testing is only conducted after a system has successfully completed inert testing and an adequate amount of data has been collected to support the decision for live testing. Testing with live targets or ordnance is closely monitored and uses the minimum number of live munitions necessary to meet the testing requirement. Depending on the test scenario, live testing may occur from the surf zone out to the outer perimeter of the NSWC PCD Study Area. The Navy must develop its capability to conduct ordnance operations in shallow water to clear surf zone areas for sea-based expeditionary operations. The size and weight of the explosives used varies from 0.91 to 272 kg (2 to 600 lb) trinitrotoluene (TNT) equivalent net explosive weight (NEW) depending on the test requirements. For this document, ordnance was analyzed based on three ranges of NEW: 0.45 to 4.5 kg (1 to 10 lb), 5 to 34 kg (11 to 75 lb), and 34.5 to 272 kg (76 to 600 lb). Detonation of ordnance with a NEW less than 34.5 kg (76 lb) is conducted in territorial waters (with the exception of line charges and because of the need to use higher amounts of NEW to clear surf zone areas) and detonation of ordnance with a NEW greater than 34.5 kg (76 lb) is conducted in non-territorial waters.

2. Line Charges

Line charges consist of a 107 m (350 ft) detonation cord with explosives lined from one end to the other end in 2 kg (5 lb) increments and total 794 kg (1,750 lb) of NEW. The charge is considered one explosive source that has multiple increments that detonate at one time. The energy released from line charges is comprised of a series of small detonations exploding sequentially rather than one simultaneous, large explosion. Therefore, they are treated as a series of small explosives rather than a large detonation. The Navy proposes to conduct up to three line charge events in the surf zone annually. Line charge testing would only be conducted in the surf zone along the portion of Santa Rosa Island that is part of Eglin Air Force Base (AFB). The Navy must develop its capability to safely clear surf zone areas for sea-based expeditionary operations. To that end, NSWC PCD occasionally performs testing on various surf zone clearing systems that use line charges to neutralize mine threats. These tests are typically conducted from a surface vessel (e.g., Landing Craft Air Cushion [LCAC]) and are deployed using either a single or dual rocket launch scenario. This is a systems development test and only assesses the in-water components of testing.

Table 2 also provides an overview of ordnance testing at NSWC PCD.

Projectile Firing

Current projectile firing includes 50 rounds of 30-mm ammunition each year within the NSWC PCD Study Area. The ability to utilize gunfire during test operations was identified as a future requirement. Rounds (individual shots) identified include 5 inch, 20 mm, 25 mm, 30 mm, 40 mm, 76 mm, and various small arms ammunition (i.e., standard target ammo). Projectiles associated with these rounds are mainly armor-piercing projectiles. The 5-in round is a high explosive (HE) projectile containing approximately 3.63 kg (8 lbs) of explosive material. Current projectile firing includes 50 rounds of 30-mm ammunition each year within the NSWC PCD Study Area. The preferred alternative would provide for increases in the number of 30-mm rounds as well as for expansion of projectile firing operations to 5 in, 20 mm, 40 mm, 76 mm, 25 mm, and small arms ammunition. All projectile firing would occur over non-territorial waters.

Description of Marine Mammals in the Area of the Specified Activities

There are 30 marine mammal species with possible or confirmed occurrence in the NSWC PCD Study Area. As indicated in Table 3, there are 29 cetacean species (7 mysticetes and 22 odontocetes) and one sirenian species. Table 3 also includes the federal status of these marine mammal species. Seven marine mammal species listed as federally endangered under the Endangered Species Act (ESA) occur in the study area: The humpback whale, North Atlantic right whale, sei whale, fin whale, blue whale, sperm whale, and West Indian manatee. Of these 30 species with occurrence records in the NSWC PCD Study Area, 22 species regularly occur here. These 22 species are: Bryde's whale, sperm whale, pygmy sperm whale, dwarf sperm whale, Cuvier's beaked whale, Gervais' beaked whale, Sowerby's beaked whale, Blainville's beaked whale, killer whale, false killer whale, pygmy killer whale, short-finned pilot whale, Risso's dolphin, melon-headed whale, rough-toothed dolphin, bottlenose dolphin, Atlantic spotted dolphin, pantropical spotted dolphin, striped dolphin, spinner dolphin, Clymene dolphin, and Fraser's dolphin. The remaining 8 species (i.e., North Atlantic right whale, humpback whale, sei whale, fin whale, blue whale, minke whale, True's beaked whale, and West Indian manatee) are extralimital and are excluded from further consideration of impacts from the NSWC PCD testing mission.

TABLE 3—MARINE MAMMAL SPECIES FOUND IN THE NSWC PCD STUDY AREA

Family and scientific name	Common name	Federal status
Order Cetacea		
Suborder Mysticeti (baleen whales)		
Eubalaena glacialis	North Atlantic right whale	Endangered.
Megaptera novaeangliae	Humpback whale	Endangered.
Balaenoptera acutorostrata	Minke whale	
B. brydei	Bryde's whale	
B. borealis	Sei whale	Endangered.
B. physalus	Fin whale	Endangered.
B. musculus	Blue whale	Endangered.
Suborder Odontoceti (toothed whales)		
Physeter macrocephalus	Sperm whale	Endangered.
Kogia breviceps	Pygmy sperm whale	
K. sima	Dwarf sperm whale	
Ziphius cavirostris	Cuvier's beaked whale	
Mesoplodon europaeus	Gervais' beaked whale	
M. Mirus	True's beaked whale	
M. bidens	Sowerby's beaked whale	
M. densirostris	Blainville's beaked whale	
Steno bredanensis	Rough-toothed dolphin	
Tursiops truncatus	Bottlenose dolphin	
Stenella attenuata	Pantropical spotted dolphin	
S. frontalis	Atlantic spotted dolphin	
S. longirostris	Spinner dolphin	
S. clymene	Clymene dolphin	
S. coeruleoalba	Striped dolphin	
Lagenodephis hosei	Fraser's dolphin	
Grampus griseus	Risso's dolphin	
Peponocephala electra	Melon-headed whale	
Feresa attenuata	Pygmy killer whale	
Pseudorca crassidens	False killer whale	
Orcinus orca	Killer whale	
Globicephala melas	Long-finned pilot whale	
G. macrorhynchus	Short-finned pilot whale	
Order Sirenia		
Trichechus manatus	West Indian manatee	Endangered.

The information contained herein relies heavily on the data gathered in the Marine Resource Assessments (MRAs). The Navy MRA Program was implemented by the Commander, Fleet Forces Command, to initiate collection of data and information concerning the protected and commercial marine resources found in the Navy's Operating Areas (OPAREAs). Specifically, the goal of the MRA program is to describe and document the marine resources present in each of the Navy's OPAREAs. The MRA for the NSWC PCD, which includes Pensacola and Panama City OPAREAs, was recently updated in 2007 (DoN, 2008).

The MRA data were used to provide a regional context for each species. The MRA represents a compilation and synthesis of available scientific literature (for example, journals, periodicals, theses, dissertations, project reports, and other technical reports published by government agencies, private businesses, or consulting firms), and NMFS reports including stock assessment reports (SAR) (Waring *et al.,* 2007), which can be viewed at: *http://www.nmfs.noaa.gov/pr/sars/species.htm.*

A detailed description of marine mammal density estimates in the NSWC PCD Study Area is provided in the Navy's LOA application and LOA Addendum.

A Brief Background on Sound

An understanding of the basic properties of underwater sound is necessary to comprehend many of the concepts and analyses presented in this document. A summary is included below.

Sound is a wave of pressure variations propagating through a medium (for the sonar considered in this proposed rule, the medium is marine water). Pressure variations are created by compressing and relaxing the medium. Sound measurements can be expressed in two forms: intensity and pressure. Acoustic intensity is the average rate of energy transmitted through a unit area in a specified direction and is expressed in watts per square meter (W/m^2). Acoustic intensity is rarely measured directly, it is derived from ratios of pressures; the standard reference pressure for underwater sound is 1 microPascal (microPa); for airborne sound, the standard reference pressure is 20 microPa (Urick, 1983).

Acousticians have adopted a logarithmic scale for sound intensities, which is denoted in decibels (dB). Decibel measurements represent the ratio between a measured pressure value and a reference pressure value (in this case 1 microPa or, for airborne sound, 20 microPa). The logarithmic nature of the scale means that each 10 dB increase is a tenfold increase in power (e.g., 20 dB is a 100-fold increase, 30 dB is a 1,000-fold increase). Humans perceive a 10-dB increase in noise as a doubling of sound level, or a 10 dB decrease in noise as a halving of sound level. The term ''sound pressure level'' implies a decibel measure and a reference pressure that is used as the denominator of the ratio. Throughout this document, NMFS uses 1 microPa as a standard reference pressure unless noted otherwise.

It is important to note that decibels underwater and decibels in air are not the same and cannot be directly compared. To estimate a comparison between sound in air and underwater, because of the different densities of air and water and the different decibel standards (i.e., reference pressures) in water and air, a sound with the same intensity (i.e., power) in air and in water would be approximately 63 dB lower in air. Thus, a sound that is 160 dB loud underwater would have the same approximate effective intensity as a sound that is 97 dB loud in air.

Sound frequency is measured in cycles per second, or Hertz (abbreviated Hz), and is analogous to musical pitch; high-pitched sounds contain high frequencies and low-pitched sounds contain low frequencies. Natural sounds in the ocean span a huge range of frequencies: from earthquake noise at 5 Hz to harbor porpoise clicks at 150,000 Hz (150 kHz). These sounds are so low or so high in pitch that humans cannot even hear them; acousticians call these infrasonic and ultrasonic sounds, respectively. A single sound may be made up of many different frequencies together. Sounds made up of only a small range of frequencies are called ''narrowband'', and sounds with a broad range of frequencies are called ''broadband''; airguns are an example of a broadband sound source and tactical sonars are an example of a narrowband sound source.

When considering the influence of various kinds of sound on the marine environment, it is necessary to understand that different kinds of marine life are sensitive to different frequencies of sound. Based on available behavioral data, audiograms derived using auditory evoked potential, anatomical modeling, and other data, Southall *et al.* (2007) designate ''functional hearing groups'' and estimate the lower and upper frequencies of functional hearing of the groups. Further, the frequency range in which each group's hearing is estimated as being most sensitive is represented in the flat part of the M-weighting functions developed for each group. The functional groups and the associated frequencies are indicated below:

- Low frequency cetaceans (13 species of mysticetes): Functional hearing is estimated to occur between approximately 7 Hz and 22 kHz.
- Mid-frequency cetaceans (32 species of dolphins, six species of larger toothed whales, and 19 species of beaked and bottlenose whales): Functional hearing is estimated to occur between approximately 150 Hz and 160 kHz.
- High frequency cetaceans (eight species of true porpoises, six species of river dolphins, *Kogia,* the franciscana, and four species of cephalorhynchids): Functional hearing is estimated to occur between approximately 200 Hz and 180 kHz.
- Pinnipeds in Water: Functional hearing is estimated to occur between approximately 75 Hz and 75 kHz, with the greatest sensitivity between approximately 700 Hz and 20 kHz.
- Pinnipeds in Air: Functional hearing is estimated to occur between approximately 75 Hz and 30 kHz.

Because ears adapted to function underwater are physiologically different from human ears, comparisons using decibel measurements in air would still not be adequate to describe the effects of a sound on a whale. When sound travels away from its source, its loudness decreases as the distance traveled (propagates) by the sound increases. Thus, the loudness of a sound at its source is higher than the loudness of that same sound a kilometer distant. Acousticians often refer to the loudness of a sound at its source (typically measured one meter from the source) as the source level and the loudness of sound elsewhere as the received level. For example, a humpback whale three kilometers from an airgun that has a source level of 230 dB may only be exposed to sound that is 160 dB loud, depending on how the sound propagates. As a result, it is important not to confuse source levels and received levels when discussing the loudness of sound in the ocean.

As sound travels from a source, its propagation in water is influenced by various physical characteristics, including water temperature, depth, salinity, and surface and bottom properties that cause refraction, reflection, absorption, and scattering of sound waves. Oceans are not homogeneous and the contribution of each of these individual factors is extremely complex and interrelated. The physical characteristics that determine the sound's speed through the water will change with depth, season, geographic location, and with time of day (as a result, in actual sonar operations, crews will measure oceanic conditions, such as sea water temperature and depth, to calibrate models that determine the path the sonar signal will take as it travels through the ocean and how strong the sound signal will be at a given range along a particular transmission path). As sound travels through the ocean, the intensity associated with the wavefront diminishes, or attenuates. This decrease in intensity is referred to as propagation loss, also commonly called transmission loss.

Metrics Used in This Document

This section includes a brief explanation of the two sound measurements (sound pressure level (SPL) and sound exposure level (SEL)) frequently used in the discussions of acoustic effects in this document.

SPL

Sound pressure is the sound force per unit area, and is usually measured in microPa, where 1 Pa is the pressure

resulting from a force of one newton exerted over an area of one square meter. SPL is expressed as the ratio of a measured sound pressure and a reference level. The commonly used reference pressure level in underwater acoustics is 1 microPa, and the units for SPLs are dB re: 1 microPa.

SPL (in dB) = 20 log (pressure/reference pressure)

SPL is an instantaneous measurement and can be expressed as the peak, the peak-peak, or the root mean square (rms). Root mean square, which is the square root of the arithmetic average of the squared instantaneous pressure values, is typically used in discussions of the effects of sounds on vertebrates and all references to SPL in this document refer to the root mean square. SPL does not take the duration of a sound into account. SPL is the applicable metric used in the risk continuum, which is used to estimate behavioral harassment takes (see Level B Harassment Risk Function (Behavioral Harassment) Section).

SEL

SEL is an energy metric that integrates the squared instantaneous sound pressure over a stated time interval. The units for SEL are dB re: 1 microPa^2-s.

SEL = SPL + 10log(duration in seconds)

As applied to tactical sonar, the SEL includes both the SPL of a sonar ping and the total duration. Longer duration pings and/or pings with higher SPLs will have a higher SEL. If an animal is exposed to multiple pings, the SEL in each individual ping is summed to calculate the total SEL. The total SEL depends on the SPL, duration, and number of pings received. The thresholds that NMFS uses to indicate at what received level the onset of temporary threshold shift (TTS) and permanent threshold shift (PTS) in hearing are likely to occur are expressed in SEL.

Potential Impacts to Marine Mammal Species

The Navy considers that the proposed NSWC PCD mission activities associated with surface operations, sonar, ordnance, and projectile firing operations are the activities with the potential to result in Level A or Level B harassment or mortality of marine mammals. The following sections discuss the potential for ship strikes to occur from surface operations, potential effects from noise related to sonar, potential effects from noise related to ordnance, potential effects from noise related to projectile firing operations, and direct physical impacts from projectile firing.

Surface Operations

Typical operations occurring at the surface include the deployment or towing of mine countermeasures (MCM) equipment, retrieval of equipment, and clearing and monitoring for non-participating vessels. As such, the potential exists for a ship to strike a marine mammal while conducting surface operations. In an effort to reduce the likelihood of a vessel strike, the mitigation and monitoring measures discussed below would be implemented.

Surface Operations in Territorial Waters

Collisions with commercial and U.S. Navy vessels can cause major wounds and may occasionally cause fatalities to marine mammals. The most vulnerable marine mammals are those that spend extended periods of time at the surface in order to restore oxygen levels within their tissues after deep dives (e.g., the sperm whale). Laist *et al.* (2001) identified 11 species known to be hit by ships worldwide. Of these species, fin whales are struck most frequently; followed by right whales, humpback whales, sperm whales, and gray whales. More specifically, from 1975 through 1996, there were 31 dead whale strandings involving four large whales along the GOM coastline. Stranded animals included two sei whales, four minke whales, eight Bryde's whales, and 17 sperm whales. Only one of the stranded animals, a sperm whale with propeller wounds found in Louisiana on 9 March 1990, was identified as a result of a possible ship strike (Laist *et al.,* 2001). In addition, from 1999 through 2003, there was only one stranding involving a false killer whale in the northern GOM (Alabama 1999) (Waring *et al.,* 2006). None of these identified species are likely to occur in the territorial waters of the NSWC PCD Study Area. This area encompasses waters that are less than 33 m (108 ft) in depth and it is unlikely any species, including Bryde's whales are located here.

It is unlikely that activities in territorial waters will result in a vessel strike because of the nature of the operations and size of the vessels. For example, the hours of surface operations take into consideration operation times for multiple vessels during each test event. These vessels range in size from small rigid hull inflatable boat (RHIB) to surface vessels of approximately 180 ft (55 m). The majority of these vessels are small RHIBs and medium-sized vessels. A large proportion of the timeframe for NSWC PCD test events include periods when vessels remain stationary within the test site. The greatest time spent in transit for tests includes navigation to and from the sites. At these times, the Navy follows standard operating procedures (SOPs). The captain and other crew members keep watch during vessel transits to avoid objects in the water. Furthermore, with the implementation of the proposed mitigation and monitoring measures described below, NMFS believes that it is unlikely vessel strikes would occur. Consequently, because of the nature of the surface operations and the size of the vessels, the proposed mitigation and monitoring measures, and the fact that cetaceans typically more vulnerable to ship strikes are not likely to be in the project area, the NMFS concludes that ship strikes are unlikely to occur in territorial waters.

Surface Operations in Non-Territorial Waters

As stated above, there have been two reports of possible watercraft-related cetacean deaths in the GOM. These deaths include one sperm whale found with propeller wounds in Louisiana in March 1990 and one false killer whale in Alabama in 1999 (Laist *et al.,* 2001; Waring *et al.,* 2007). According to the 2008 SAR, no other marine mammal that is likely to occur in the northern GOM has been reported as either seriously or fatally injured from a ship strike between 1999 through 2003 (Waring *et al.,* 2007). The nature of operations, size of vessels and standard operating procedures to minimize the risk of vessel collisions will be similar to those expected to occur in territorial waters. Moreover, the implementation of additional mitigation and monitoring measures will reduce further the probability of a vessel strike. Thus, NMFS concludes that the potential effects to marine mammals from surface operations in non-territorial waters will be similar to those described for territorial waters.

Acoustic Effects: Exposure to Sonar

For activities involving active tactical sonar, underwater detonations, and projectile firing, NMFS's analysis will identify the probability of lethal responses, physical trauma, sensory impairment (permanent and temporary threshold shifts and acoustic masking), physiological responses (particular stress responses), behavioral disturbance (that rises to the level of harassment), and social responses that would be classified as behavioral harassment or injury and/or would be likely to adversely affect the species or

stock through effects on annual rates of recruitment or survival. In this section, we will focus qualitatively on the different ways that mid-frequency active sonar (MFAS) and high frequency active sonar (HFAS), ordnance, and projectile firing may affect marine mammals (some of which NMFS would not classify as harassment). Then, in the Estimated Take of Marine Mammals section, NMFS will relate the potential effects to marine mammals from HFAS/MFAS, ordnance, and projectile firing to the MMPA regulatory definitions of Level A and Level B Harassment and attempt to quantify those effects.

Direct Physiological Effects

Based on the literature, there are two basic ways that HFAS/MFAS might directly result in physical trauma or damage: Noise-induced loss of hearing sensitivity (more commonly-called ''threshold shift'') and acoustically mediated bubble growth. Separately, an animal's behavioral reaction to an acoustic exposure might lead to physiological effects that might ultimately lead to injury or death, which is discussed later in the Stranding section.

Threshold Shift (Noise-Induced Loss of Hearing)

When animals exhibit reduced hearing sensitivity (i.e., sounds must be louder for an animal to recognize them) following exposure to a sufficiently intense sound, it is referred to as a noise-induced threshold shift (TS). An animal can experience temporary threshold shift (TTS) or permanent threshold shift (PTS). TTS can last from minutes or hours to days (i.e., there is recovery), occurs in specific frequency ranges (i.e., an animal might only have a temporary loss of hearing sensitivity between the frequencies of 1 and 10 kHz), and can be of varying amounts (for example, an animal's hearing sensitivity might be reduced by only 6 dB or reduced by 30 dB). PTS is permanent (i.e., there is no recovery), but also occurs in a specific frequency range and amount as mentioned in the TTS description.

The following physiological mechanisms are thought to play a role in inducing auditory TSs: Effects to sensory hair cells in the inner ear that reduce their sensitivity, modification of the chemical environment within the sensory cells, residual muscular activity in the middle ear, displacement of certain inner ear membranes, increased blood flow, and post-stimulatory reduction in both efferent and sensory neural output (Southall *et al.,* 2007). The amplitude, duration, frequency, temporal pattern, and energy distribution of sound exposure all affect the amount of associated TS and the frequency range in which it occurs. As amplitude and duration of sound exposure increase, so, generally, does the amount of TS. For continuous sounds, exposures of equal energy (the same SEL) will lead to approximately equal effects. For intermittent sounds, less TS will occur than from a continuous exposure with the same energy (some recovery will occur between exposures) (Kryter *et al.,* 1966; Ward, 1997). For example, one short but loud (higher SPL) sound exposure may induce the same impairment as one longer but softer sound, which in turn may cause more impairment than a series of several intermittent softer sounds with the same total energy (Ward, 1997). Additionally, though TTS is temporary, very prolonged exposure to sound strong enough to elicit TTS, or shorter-term exposure to sound levels well above the TTS threshold, can cause PTS, at least in terrestrial mammals (Kryter, 1985) (although in the case of HFAS/MFAS, animals are not expected to be exposed to levels high enough or durations long enough to result in PTS).

PTS is considered auditory injury (Southall *et al.,* 2007). Irreparable damage to the inner or outer cochlear hair cells may cause PTS, however, other mechanisms are also involved, such as exceeding the elastic limits of certain tissues and membranes in the middle and inner ears and resultant changes in the chemical composition of the inner ear fluids (Southall *et al.,* 2007).

Although the published body of scientific literature contains numerous theoretical studies and discussion papers on hearing impairments that can occur with exposure to a loud sound, only a few studies provide empirical information on the levels at which noise-induced loss in hearing sensitivity occurs in nonhuman animals. For cetaceans, published data are limited to the captive bottlenose dolphin and beluga whale (Finneran *et al.,* 2000, 2002b, 2005a; Schlundt *et al.,* 2000; Nachtigall *et al.,* 2003, 2004).

Marine mammal hearing plays a critical role in communication with conspecifics, and interpreting environmental cues for purposes such as predator avoidance and prey capture. Depending on the frequency range of TTS degree (dB), duration, and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious (similar to those discussed in auditory masking, below). For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that takes place during a time when the animal is traveling through the open ocean, where ambient noise is lower and there are not as many competing sounds present.

Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts. Also, depending on the degree and frequency range, the effects of PTS on an animal could range in severity, although it is considered generally more serious because it is a long term condition. Of note, reduced hearing sensitivity as a simple function of development and aging has been observed in marine mammals, as well as humans and other taxa (Southall *et al.,* 2007), so we can infer that strategies exist for coping with this condition to some degree, though likely not without cost. There is no empirical evidence that exposure to HFAS/MFAS can cause PTS in any marine mammals; instead the probability of PTS has been inferred from studies of TTS (see Richardson *et al.,* 1995).

Acoustically Mediated Bubble Growth

One theoretical cause of injury to marine mammals is rectified diffusion (Crum and Mao, 1996), the process of increasing the size of a bubble by exposing it to a sound field. This process could be facilitated if the environment in which the ensonified bubbles exist is supersaturated with gas. Repetitive diving by marine mammals can cause the blood and some tissues to accumulate gas to a greater degree than is supported by the surrounding environmental pressure (Ridgway and Howard, 1979). The deeper and longer dives of some marine mammals (for example, beaked whales) are theoretically predicted to induce greater supersaturation (Houser *et al.,* 2001b). If rectified diffusion were possible in marine mammals exposed to high-level sound, conditions of tissue supersaturation could theoretically speed the rate and increase the size of bubble growth. Subsequent effects due to tissue trauma and emboli would presumably mirror those observed in humans suffering from decompression sickness.

It is unlikely that the short duration of sonar pings would be long enough to drive bubble growth to any substantial size, if such a phenomenon occurs. Recent work conducted by Crum *et al.* (2005) demonstrated the possibility of rectified diffusion for short duration

signals, but at sound exposure levels and tissue saturation levels that are improbable to occur in a diving marine mammal. However, an alternative but related hypothesis has also been suggested: Stable bubbles could be destabilized by high-level sound exposures such that bubble growth then occurs through static diffusion of gas out of the tissues. In such a scenario the marine mammal would need to be in a gas-supersaturated state for a long enough period of time for bubbles to become of a problematic size. Yet another hypothesis (decompression sickness) has speculated that rapid ascent to the surface following exposure to a startling sound might produce tissue gas saturation sufficient for the evolution of nitrogen bubbles (Jepson *et al.,* 2003; Fernandez *et al.,* 2005). In this scenario, the rate of ascent would need to be sufficiently rapid to compromise behavioral or physiological protections against nitrogen bubble formation. Collectively, these hypotheses can be referred to as ''hypotheses of acoustically mediated bubble growth.''

Although theoretical predictions suggest the possibility for acoustically mediated bubble growth, there is considerable disagreement among scientists as to its likelihood (Piantadosi and Thalmann, 2004; Evans and Miller, 2003). Crum and Mao (1996) hypothesized that received levels would have to exceed 190 dB in order for there to be the possibility of significant bubble growth due to supersaturation of gases in the blood (i.e., rectified diffusion). More recent work conducted by Crum *et al.* (2005) demonstrated the possibility of rectified diffusion for short duration signals, but at SELs and tissue saturation levels that are highly improbable to occur in diving marine mammals. To date, Energy Levels (ELs) predicted to cause in vivo bubble formation within diving cetaceans have not been evaluated (NOAA, 2002b). Although it has been argued that traumas from some recent beaked whale strandings are consistent with gas emboli and bubble-induced tissue separations (Jepson *et al.,* 2003), there is no conclusive evidence of this. However, Jepson *et al.* (2003, 2005) and Fernandez *et al.* (2004, 2005) concluded that in vivo bubble formation, which may be exacerbated by deep, long duration, repetitive dives may explain why beaked whales appear to be particularly vulnerable to sonar exposures. Further investigation is needed to further assess the potential validity of these hypotheses. More information regarding hypotheses that attempt to explain how behavioral responses to HFAS/MFAS can lead to strandings is included in the Behaviorally Mediated Bubble Growth section, after the summary of strandings.

Acoustic Masking

Marine mammals use acoustic signals for a variety of purposes, which differ among species, but include communication between individuals, navigation, foraging, reproduction, and learning about their environment (Erbe and Farmer, 2000; Tyack, 2000). Masking, or auditory interference, generally occurs when sounds in the environment are louder than and of a similar frequency to, auditory signals an animal is trying to receive. Masking is a phenomenon that affects animals that are trying to receive acoustic information about their environment, including sounds from other members of their species, predators, prey, and sounds that allow them to orient in their environment. Masking these acoustic signals can disturb the behavior of individual animals, groups of animals, or entire populations.

The extent of the masking interference depends on the spectral, temporal, and spatial relationships between the signals an animal is trying to receive and the masking noise, in addition to other factors. In humans, significant masking of tonal signals occurs as a result of exposure to noise in a narrow band of similar frequencies. As the sound level increases, though, the detection of frequencies above those of the masking stimulus decreases also. This principle is expected to apply to marine mammals as well because of common biomechanical cochlear properties across taxa.

Richardson *et al.* (1995) argued that the maximum radius of influence of an industrial noise (including broadband low frequency sound transmission) on a marine mammal is the distance from the source to the point at which the noise can barely be heard. This range is determined by either the hearing sensitivity of the animal or the background noise level present. Industrial masking is most likely to affect some species' ability to detect communication calls and natural sounds (i.e., surf noise, prey noise, etc.; Richardson *et al.,* 1995).

The echolocation calls of odontocetes (toothed whales) are subject to masking by high frequency sound. Human data indicate low frequency sound can mask high frequency sounds (i.e., upward masking). Studies on captive odontocetes by Au *et al.* (1974, 1985, 1993) indicate that some species may use various processes to reduce masking effects (e.g., adjustments in echolocation call intensity or frequency as a function of background noise conditions). There is also evidence that the directional hearing abilities of odontocetes are useful in reducing masking at the high frequencies these cetaceans use to echolocate, but not at the low-to moderate frequencies they use to communicate (Zaitseva *et al.,* 1980).

As mentioned previously, the functional hearing ranges of mysticetes (baleen whales) and odontocetes (toothed whales) all encompass the frequencies of the sonar sources used in the Navy's RDT&E activities. Additionally, almost all species' vocal repertoires span across the frequencies of the sonar sources used by the Navy. The closer the characteristics of the masking signal to the signal of interest, the more likely masking is to occur. However, because the pulse length and duty cycle of the HFAS/MFAS signal are of short duration and would not be continuous, masking is unlikely to occur as a result of exposure to HFAS/MFAS during the mission activities in the NSWC PCD Study Area.

Impaired Communication

In addition to making it more difficult for animals to perceive acoustic cues in their environment, anthropogenic sound presents separate challenges for animals that are vocalizing. When they vocalize, animals are aware of environmental conditions that affect the ''active space'' of their vocalizations, which is the maximum area within which their vocalizations can be detected before it drops to the level of ambient noise (Brenowitz, 2004; Brumm *et al.,* 2004; Lohr *et al.,* 2003). Animals are also aware of environmental conditions that affect whether listeners can discriminate and recognize their vocalizations from other sounds, which are more important than detecting a vocalization (Brenowitz, 1982; Brumm *et al.,* 2004; Dooling, 2004; Marten and Marler, 1977; Patricelli *et al.,* 2006). Most animals that vocalize have evolved an ability to make vocal adjustments to their vocalizations to increase the signal-to-noise ratio, active space, and recognizability of their vocalizations in the face of temporary changes in background noise (Brumm *et al.,* 2004; Patricelli *et al.,* 2006). Vocalizing animals will make one or more of the following adjustments to their vocalizations: Adjust the frequency structure; adjust the amplitude; adjust temporal structure; or adjust temporal delivery.

Many animals will combine several of these strategies to compensate for high levels of background noise. Anthropogenic sounds that reduce the signal-to-noise ratio of animal

vocalizations, increase the masked auditory thresholds of animals listening for such vocalizations, or reduce the active space of an animal's vocalizations impair communication between animals. Most animals that vocalize have evolved strategies to compensate for the effects of short-term or temporary increases in background or ambient noise on their songs or calls. Although the fitness consequences of these vocal adjustments remain unknown, like most other trade-offs animals must make, some of these strategies probably come at a cost (Patricelli *et al.,* 2006). For example, vocalizing more loudly in noisy environments may have energetic costs that decrease the net benefits of vocal adjustment and alter a bird's energy budget (Brumm, 2004; Wood and Yezerinac, 2006). Shifting songs and calls to higher frequencies may also impose energetic costs (Lambrechts, 1996).

Stress Responses

Classic stress responses begin when an animal's central nervous system perceives a potential threat to its homeostasis. That perception triggers stress responses regardless of whether a stimulus actually threatens the animal; the mere perception of a threat is sufficient to trigger a stress response (Moberg, 2000; Sapolsky *et al.,* 2005; Seyle, 1950). Once an animal's central nervous system perceives a threat, it mounts a biological response or defense that consists of a combination of the four general biological defense responses: Behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune response.

In the case of many stressors, an animal's first and most economical (in terms of biotic costs) response is behavioral avoidance of the potential stressor or avoidance of continued exposure to a stressor. An animal's second line of defense to stressors involves the autonomic nervous system and the classical ''fight or flight'' response which includes the cardiovascular system, the gastrointestinal system, the exocrine glands, and the adrenal medulla to produce changes in heart rate, blood pressure, and gastrointestinal activity that humans commonly associate with ''stress.'' These responses have a relatively short duration and may or may not have significant long-term effects on an animal's welfare.

An animal's third line of defense to stressors involves its neuroendocrine or sympathetic nervous systems; the system that has received the most study has been the hypothalamus-pituitary-adrenal system (also known as the HPA axis in mammals or the hypothalamus-pituitary-interrenal axis in fish and some reptiles). Unlike stress responses associated with the autonomic nervous system, virtually all neuro-endocrine functions that are affected by stress—including immune competence, reproduction, metabolism, and behavior—are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction (Moberg, 1987; Rivier, 1995) and altered metabolism (Elasser *et al.,* 2000), reduced immune competence (Blecha, 2000) and behavioral disturbance. Increases in the circulation of glucocorticosteroids (cortisol, corticosterone, and aldosterone in marine mammals; Romano *et al.,* 2004) have been equated with stress for many years.

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and distress is the biotic cost of the response. During a stress response, an animal uses glycogen stores that can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose a risk to the animal's welfare. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other biotic functions, which impair those functions that experience the diversion. For example, when mounting a stress response diverts energy away from growth in young animals, those animals may experience stunted growth. When mounting a stress response diverts energy from a fetus, an animal's reproductive success and its fitness will suffer. In these cases, the animals will have entered a pre-pathological or pathological state which is called ''distress'' (sensu Seyle, 1950) or ''allostatic loading'' (sensu McEwen and Wingfield, 2003). This pathological state will last until the animal replenishes its biotic reserves sufficient to restore normal function.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses have also been documented fairly well through controlled experiments; because this physiology exists in every vertebrate that has been studied, it is not surprising that stress responses and their costs have been documented in both laboratory and free-living animals (for examples see, Holberton *et al.,* 1996; Hood *et al.,* 1998; Jessop *et al.,* 2003; Krausman *et al.,* 2004; Lankford *et al.,* 2005; Reneerkens *et al.,* 2002; Thompson and Hamer, 2000). Although no information has been collected on the physiological responses of marine mammals to exposure to anthropogenic sounds, studies of other marine animals and terrestrial animals would lead us to expect some marine mammals to experience physiological stress responses and, perhaps, physiological responses that would be classified as ''distress'' upon exposure to mid-frequency and low frequency sounds.

For example, Jansen (1998) reported on the relationship between acoustic exposures and physiological responses that are indicative of stress responses in humans (for example, elevated respiration and increased heart rates). Jones (1998) reported on reductions in human performance when faced with acute, repetitive exposures to acoustic disturbance. Trimper *et al.* (1998) reported on the physiological stress responses of osprey to low-level aircraft noise while Krausman *et al.* (2004) reported on the auditory and physiology stress responses of endangered Sonoran pronghorn to military overflights. Smith *et al.* (2004a, 2004b) identified noise induced physiological transient stress responses in hearing-specialist fish that accompanied short- and long-term hearing losses. Welch and Welch (1970) reported physiological and behavioral stress responses that accompanied damage to the inner ears of fish and several mammals.

Hearing is one of the primary senses cetaceans use to gather information about their environment and to communicate with conspecifics. Although empirical information on the relationship between sensory impairment (TTS, PTS, and acoustic masking) on cetaceans remains limited, it seems reasonable to assume that reducing an animal's ability to gather information about its environment and to communicate with other members of its species would be stressful for animals that use hearing as their primary sensory mechanism. Therefore, we assume that acoustic exposures sufficient to trigger onset PTS or TTS would be accompanied by physiological stress responses because terrestrial animals exhibit those responses under similar conditions (NRC, 2003). More importantly, marine mammals might experience stress responses at received levels lower than those necessary to trigger onset TTS. Based on empirical studies of the time required to recover from stress responses (Moberg, 2000), we also assume that stress responses are likely to persist beyond the time interval required for animals to recover from TTS and might result in pathological

and pre-pathological states that would be as significant as behavioral responses to TTS.

Behavioral Disturbance

Behavioral responses to sound are highly variable and context-specific. Exposure of marine mammals to sound sources can result in (but is not limited to) the following observable responses: Increased alertness; orientation or attraction to a sound source; vocal modifications; cessation of feeding; cessation of social interaction; alteration of movement or diving behavior; habitat abandonment (temporary or permanent); and, in severe cases, panic, flight, stampede, or stranding, potentially resulting in death (Southall *et al.,* 2007).

Many different variables can influence an animal's perception of and response to (nature and magnitude) an acoustic event. An animal's prior experience with a sound type affects whether it is less likely (habituation) or more likely (sensitization) to respond to certain sounds in the future (animals can also be innately pre-disposed to respond to certain sounds in certain ways) (Southall *et al.,* 2007). Related to the sound itself, the perceived nearness of the sound, bearing of the sound (approaching vs. retreating), similarity of a sound to biologically relevant sounds in the animal's environment (i.e., calls of predators, prey, or conspecifics), and familiarity of the sound may affect the way an animal responds to the sound (Southall *et al.,* 2007). Individuals (of different age, gender, reproductive status, etc.) among most populations will have variable hearing capabilities, and differing behavioral sensitivities to sounds that will be affected by prior conditioning, experience, and current activities of those individuals. Often, specific acoustic features of the sound and contextual variables (i.e., proximity, duration, or recurrence of the sound or the current behavior that the marine mammal is engaged in or its prior experience), as well as entirely separate factors such as the physical presence of a nearby vessel, may be more relevant to the animal's response than the received level alone.

There are few empirical studies of avoidance responses of free-living cetaceans to mid-frequency sonars. Much more information is available on the avoidance responses of free-living cetaceans to other acoustic sources, like seismic airguns and low frequency sonar, than mid-frequency active sonar. Richardson *et al.,* (1995) noted that avoidance reactions are the most obvious manifestations of disturbance in marine mammals.

Behavioral Responses (Southall et al. (2007))

Southall *et al.,* (2007) reports the results of the efforts of a panel of experts in acoustic research from behavioral, physiological, and physical disciplines that convened and reviewed the available literature on marine mammal hearing and physiological and behavioral responses to man-made sound with the goal of proposing exposure criteria for certain effects. This compilation of literature is very valuable, though Southall *et al.* note that not all data is equal, some have poor statistical power, insufficient controls, and/or limited information on received levels, background noise, and other potentially important contextual variables—such data were reviewed and sometimes used for qualitative illustration, but were not included in the quantitative analysis for the criteria recommendations.

In the Southall *et al.,* (2007) report, for the purposes of analyzing responses of marine mammals to anthropogenic sound and developing criteria, the authors differentiate between single pulse sounds, multiple pulse sounds, and non-pulse sounds. HFAS/MFAS sonar is considered a non-pulse sound. Southall *et al.,* (2007) summarize the reports associated with low, mid, and high frequency cetacean responses to non-pulse sounds (there are no pinnipeds in the Gulf of Mexico (GOM)) in Appendix C of their report (incorporated by reference and summarized in the three paragraphs below).

The reports that address responses of low frequency cetaceans to non-pulse sounds include data gathered in the field and related to several types of sound sources (of varying similarity to HFAS/MFAS) including: Vessel noise, drilling and machinery playback, low frequency M-sequences (sine wave with multiple phase reversals) playback, low frequency active sonar playback, drill vessels, Acoustic Thermometry of Ocean Climate (ATOC) source, and non-pulse playbacks. These reports generally indicate no (or very limited) responses to received levels in the 90 to 120 dB re 1 micro Pa range and an increasing likelihood of avoidance and other behavioral effects in the 120 to 160 dB range. As mentioned earlier, however, contextual variables play a very important role in the reported responses and the severity of effects are not linear when compared to received level. Also, few of the laboratory or field datasets had common conditions, behavioral contexts or sound sources, so it is not surprising that responses differ.

The reports that address responses of mid-frequency cetaceans to non-pulse sounds include data gathered both in the field and the laboratory and related to several different sound sources (of varying similarity to HFAS/MFAS) including: Pingers, drilling playbacks, vessel and ice-breaking noise, vessel noise, Acoustic Harassment Devices (AHDs), Acoustic Deterrent Devices (ADDs), HFAS/MFAS, and non-pulse bands and tones. Southall *et al.* were unable to come to a clear conclusion regarding these reports. In some cases, animals in the field showed significant responses to received levels between 90 and 120 dB, while in other cases these responses were not seen in the 120 to 150 dB range. The disparity in results was likely due to contextual variation and the differences between the results in the field and laboratory data (animals responded at lower levels in the field).

The reports that address the responses of high frequency cetaceans to non-pulse sounds include data gathered both in the field and the laboratory and related to several different sound sources (of varying similarity to HFAS/MFAS) including: acoustic harassment devices, Acoustical Telemetry of Ocean Climate (ATOC), wind turbine, vessel noise, and construction noise. However, no conclusive results are available from these reports. In some cases, high frequency cetaceans (harbor porpoises) are observed to be quite sensitive to a wide range of human sounds at very low exposure RLs (90 to 120 dB). All recorded exposures exceeding 140 dB produced profound and sustained avoidance behavior in wild harbor porpoises (Southall *et al.,* 2007).

In addition to summarizing the available data, the authors of Southall *et al.* (2007) developed a severity scaling system with the intent of ultimately being able to assign some level of biological significance to a response. Following is a summary of their scoring system, a comprehensive list of the behaviors associated with each score may be found in the report:

- 0–3 (Minor and/or brief behaviors) includes, but is not limited to: No response; minor changes in speed or locomotion (but with no avoidance); individual alert behavior; minor cessation in vocal behavior; minor changes in response to trained behaviors (in laboratory).
- 4–6 (Behaviors with higher potential to affect foraging, reproduction, or survival) includes, but is not limited to: Moderate changes in speed, direction, or dive profile; brief shift in group distribution; prolonged cessation or modification of vocal behavior (duration > duration of sound),

minor or moderate individual and/or group avoidance of sound; brief cessation of reproductive behavior; or refusal to initiate trained tasks (in laboratory).

• 7–9 (Behaviors considered likely to affect the aforementioned vital rates) includes, but are not limited to: Extensive of prolonged aggressive behavior; moderate, prolonged or significant separation of females and dependent offspring with disruption of acoustic reunion mechanisms; long-term avoidance of an area; outright panic, stampede, stranding; threatening or attacking sound source (in laboratory).

In Table 4 we have summarized the scores that Southall *et al.* (2007) assigned to the papers that reported behavioral responses of low frequency cetaceans, mid-frequency cetaceans, and high frequency cetaceans to non-pulse sounds.

Table 4. Data compiled from three tables from Southall et al. (2007) indicating when marine mammals (low-frequency cetacean = L, mid-frequency cetacean = M, and high-frequency cetacean = H) were reported as having a behavioral response of the indicated severity to a non-pulse sound of the indicated received level. As discussed in the text, responses are highly variable and context specific.

	Received RMS Sound Pressure Level (dB re 1 microPa)											
Response Score	80 to <90	90 to < 100	100 to < 110	110 to <120	120 to < 130	130 to < 140	140 to < 150	150 to < 160	160 to < 170	170 to < 180	180 to < 190	190 to < 200
9												
8		M	M		M		M				M	M
7						L	L					
6	H	L/H	L/H	L/M/H	L/M/H	L	L/H	H	M/H	M		
5					M							
4			H	L/M/H	L/M		L					
3		M	L/M	L/M	M							
2			L	L/M	L	L	L					
1			M	M	M							
0	L/H	L/H	L/M/H	L/M/H	L/M/H	L	M				M	M

Potential Effects of Behavioral Disturbance

The different ways that marine mammals respond to sound are sometimes indicators of the ultimate effect that exposure to a given stimulus will have on the well-being (survival, reproduction, etc.) of an animal. There is little marine mammal data quantitatively relating the exposure of marine mammals to sound to effects on reproduction or survival, though data exists for terrestrial species to which we can draw comparisons for marine mammals.

Attention is the cognitive process of selectively concentrating on one aspect of an animal's environment while ignoring other things (Posner, 1994). Because animals (including humans) have limited cognitive resources, there is a limit to how much sensory information they can process at any time. The phenomenon called ''attentional capture'' occurs when a stimulus (usually a stimulus that an animal is not concentrating on or attending to) ''captures'' an animal's attention. This shift in attention can occur consciously or unconsciously (for example, when an animal hears sounds that it associates with the approach of a predator) and the shift in attention can be sudden (Dukas, 2002; van Rij, 2007). Once a stimulus has captured an animal's attention, the animal can respond by ignoring the stimulus, assuming a ''watch and wait'' posture, or treat the stimulus as a disturbance and respond accordingly, which includes scanning for the source of the stimulus or ''vigilance'' (Cowlishaw *et al.,* 2004).

Vigilance is normally an adaptive behavior that helps animals determine the presence or absence of predators, assess their distance from conspecifics, or to attend cues from prey (Bednekoff and Lima,1998; Treves, 2000). Despite those benefits, however, vigilance has a cost of time: When animals focus their attention on specific environmental cues, they are not attending to other activities such a foraging. These costs have been documented best in foraging animals, where vigilance has been shown to substantially reduce feeding rates (Saino, 1994; Beauchamp and Livoreil, 1997; Fritz *et al.,* 2002).

Animals will spend more time being vigilant, which may translate to less time foraging or resting, when disturbance stimuli approach them more directly, remain at closer distances, have a greater group size (for example, multiple surface vessels), or when they co-occur with times that an animal perceives increased risk (for example, when they are giving birth or accompanied by a calf). Most of the published literature, however, suggests that direct approaches will increase the amount of time animals will dedicate to being vigilant. For example, bighorn sheep and Dall's sheep dedicated more time being vigilant, and less time resting or foraging, when aircraft made direct approaches over them (Frid, 2001; Stockwell *et al.,* 1991).

Several authors have established that long-term and intense disturbance stimuli can cause population declines by reducing the body condition of individuals that have been disturbed, followed by reduced reproductive success, reduced survival, or both (Daan *et al.,* 1996; Madsen, 1994; White, 1983). For example, Madsen (1994) reported that pink-footed geese (*Anser brachyrhynchus*) in undisturbed habitat gained body mass and had about a 46-percent reproductive success compared with geese in disturbed habitat (being

consistently scared off the fields on which they were foraging) which did not gain mass and has a 17 percent reproductive success. Similar reductions in reproductive success have been reported for mule deer (*Odocoileus hemionus*) disturbed by all-terrain vehicles (Yarmoloy *et al.,* 1988), caribou disturbed by seismic exploration blasts (Bradshaw *et al.,* 1998), caribou disturbed by low-elevation military jetfights (Luick *et al.,* 1996), and caribou disturbed by low-elevation jet flights (Harrington and Veitch, 1992). Similarly, a study of elk (*Cervus elaphus*) that were disturbed experimentally by pedestrians concluded that the ratio of young to mothers was inversely related to disturbance rate (Phillips and Alldredge, 2000).

The primary mechanism by which increased vigilance and disturbance appear to affect the fitness of individual animals is by disrupting an animal's time budget and, as a result, reducing the time they might spend foraging and resting (which increases an animal's activity rate and energy demand). For example, a study of grizzly bears (*Ursus horribilis*) reported that bears disturbed by hikers reduced their energy intake by an average of 12 kcal/min (50.2 × 103kJ/min), and spent energy fleeing or acting aggressively toward hikers (White *et al.,* 1999).

On a related note, many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (24-hr. cycle). Substantive behavioral reactions to noise exposure (such as disruption of critical life functions, displacement, or avoidance of important habitat) are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). Consequently, a behavioral response lasting less than one day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.,* 2007).

Stranding and Mortality

When a live or dead marine mammal swims or floats onto shore and becomes ''beached'' or incapable of returning to sea, the event is termed a ''stranding'' (Geraci *et al.,* 1999; Perrin and Geraci, 2002; Geraci and Lounsbury, 2005; NMFS, 2007). The legal definition for a stranding within the United States is that ''a marine mammal is dead and is (i) on a beach or shore of the United States; or (ii) in waters under the jurisdiction of the United States (including any navigable waters); or (B) a marine mammal is alive and is (i) on a beach or shore of the United States and is unable to return to the water; (ii) on a beach or shore of the United States and, although able to return to the water, is in need of apparent medical attention; or (iii) in the waters under the jurisdiction of the United States (including any navigable waters), but is unable to return to its natural habitat under its own power or without assistance.'' (16 U.S.C. 1421h).

Marine mammals are known to strand for a variety of reasons, such as infectious agents, biotoxicosis, starvation, fishery interaction, ship strike, unusual oceanographic or weather events, sound exposure, or combinations of these stressors sustained concurrently or in series. However, the cause or causes of most stranding are unknown (Geraci *et al.,* 1976; Eaton, 1979; Odell *et al.,* 1980; Best, 1982). Numerous studies suggest that the physiology, behavior, habitat relationships, age, or condition of cetaceans may cause them to strand or might pre-dispose them to strand when exposed to these phenomena. These suggestions are consistent with the conclusions of numerous other studies that have demonstrated that combinations of dissimilar stressors commonly combine to kill an animal or dramatically reduce its fitness, even though one exposure without the other does not produce the same result (Chroussos, 2000; Creel, 2005; DeVries *et al.,* 2003; Fair and Becker, 2000; Foley *et al.,* 2001; Moberg, 2000; Relyea, 2005a; 2005b, Romero, 2004; Sih *et al.,* 2004).

Several sources have published lists of mass stranding events of cetaceans during attempts to identify relationships between those stranding events and military sonar (Hildebrand, 2004; IWC, 2005; Taylor *et al.,* 2004). For example, based on a review of stranding records between 1960 and 1995, the International Whaling Commission (IWC, 2005) identified ten mass stranding events of Cuvier's beaked whales that had been reported and one mass stranding of four Baird's beaked whales (*Berardius bairdii*). The IWC concluded that, out of eight stranding events reported from the mid-1980s to the summer of 2003, seven had been associated with the use of mid-frequency sonar, one of those seven had been associated with the use of low frequency sonar, and the remaining stranding event had been associated with the use of seismic airguns.

Most of the stranding events reviewed by the IWC involved beaked whales. A mass stranding of Cuvier's beaked whales in the eastern Mediterranean Sea occurred in 1996 (Frantzis, 1998) and mass stranding events involving Gervais' beaked whales, Blainville's beaked whales, and Cuvier's beaked whales occurred off the coast of the Canary Islands in the late 1980s (Simmonds and Lopez-Jurado, 1991). The stranding events that occurred in the Canary Islands and Kyparissiakos Gulf in the late 1990s and the Bahamas in 2000 have been the most intensively studied mass stranding events and have been associated with naval maneuvers that were using sonar.

Between 1960 and 2006, 48 strandings (68 percent) involved beaked whales, 3 (4 percent) involved dolphins, and 14 (20 percent) involved other whale species. Cuvier's beaked whales were involved in the greatest number of these events (48 or 68 percent), followed by sperm whales (7 or 10 percent), and Blainville's and Gervais' beaked whales (4 each or 6 percent). Naval activities that might have involved active sonar are reported to have coincided with 9 (13 percent) or 10 (14 percent) of those stranding events. Between the mid-1980s and 2003 (the period reported by the IWC), we identified reports of 44 mass cetacean stranding events of which at least 7 were coincident with naval exercises that were using mid-frequency sonar. A list of stranding events that are considered to be associated with MFAS is presented in the proposed rulemaking for the Navy's training in the Hawaii Range Complex (73 FR 35510; June 23, 2008).

Association Between Mass Stranding Events and Exposure to MFAS

Several authors have noted similarities between some of these stranding incidents: they occurred in islands or archipelagoes with deep water nearby, several appeared to have been associated with acoustic waveguides like surface ducting, and the sound fields created by vessels transmitting mid-frequency sonar (Cox *et al.,* 2006, D'Spain *et al.,* 2006). However, only 77 hours of the proposed NSWC PCD RDT&E activities would involve the use of mid-frequency sonar. Of the mid-frequency sonar sources proposed to be used per year, only 4 hours would be associated with the highest powered surface vessel source (AN/SQS–53/56). The remaining mid-frequency sonar sources do not have strong source levels, therefore, their zones of influence are much smaller compared to these highest powered surface vessel sources, and animals can be more easily detected, thereby increasing the probability that sonar operations can be modified to reduce the risk of injury to marine mammals. In addition, the proposed test events differ

significantly from major Navy exercises and training which involve multi-vessel training scenarios using the AN/SQS–53/56 source that have been associated with past strandings. In contrast, the majority of sonar operations (1,277 hours) would be using high-frequency sonar. Source levels of the HFAS are not as high as the 53C series MFAS or other proposed MFAS sources. In addition, high frequency signals tend to have more attenuation in the water column and are more prone to lose their energy during propagation. Therefore, their zones of influence are much smaller and are less likely to affect marine mammals. Although Cuvier's beaked whales have been the most common species involved in these stranding events (81 percent of the total number of stranded animals and see Figure 1), other beaked whales (including *Mesoplodon europeaus, M. densirostris,* and *Hyperoodon ampullatus*) comprise 14 percent of the total. Other species (*Stenella coeruleoalba, Kogia breviceps* and *Balaenoptera acutorostrata*) have stranded, but in much lower numbers and less consistently than beaked whales.

Based on the available evidence, however, we cannot determine whether (a) Cuvier's beaked whale is more prone to injury from high-intensity sound than other species, (b) their behavioral responses to sound makes them more likely to strand, or (c) they are more likely to be exposed to mid-frequency active sonar than other cetaceans (for reasons that remain unknown). Because the association between active sonar (mid-frequency) exposures and marine mammal mass stranding events is not consistent—some marine mammals strand without being exposed to sonar and some sonar transmissions are not associated with marine mammal stranding events despite their co-occurrence—other risk factors or a grouping of risk factors probably contribute to these stranding events.

Behaviorally Mediated Responses to HFAS/MFAS That May Lead to Stranding

Although the confluence of Navy mid-frequency active tactical sonar with the other contributory factors noted in the report was identified as the cause of the 2000 Bahamas stranding event, the specific mechanisms that led to that stranding (or the others) are not understood, and there is uncertainty regarding the ordering of effects that led to the stranding. It is unclear whether beaked whales were directly injured by sound (acoustically mediated bubble growth, addressed above) prior to stranding or whether a behavioral response to sound occurred that ultimately caused the beaked whales to be injured and strand.

Although causal relationships between beaked whale stranding events and active sonar remain unknown, several authors have hypothesized that stranding events involving these species in the Bahamas and Canary Islands may have been triggered when the whales changed their dive behavior in a startled response to exposure to active sonar or to further avoid exposure (Cox *et al.,* 2006, Rommel *et al.,* 2006). These authors proposed two mechanisms by which the behavioral responses of beaked whales upon being exposed to active sonar might result in a stranding event. These include: gas bubble formation caused by excessively fast surfacing; remaining at the surface too long when tissues are supersaturated with nitrogen; or diving prematurely when extended time at the surface is necessary to eliminate excess nitrogen. More specifically, beaked whales that occur in deep waters that are in close proximity to shallow waters (for example, the ''canyon areas'' that are cited in the Bahamas stranding event; see D'Spain and D'Amico, 2006), may respond to active sonar by swimming into shallow waters to avoid further exposures and strand if they were not able to swim back to deeper waters. Second, beaked whales exposed to active sonar might alter their dive behavior. Changes in their dive behavior might cause them to remain at the surface or at depth for extended periods of time, which could lead to hypoxia directly by increasing their oxygen demands or indirectly by increasing their energy expenditures (to remain at depth) and increase their oxygen demands as a result. If beaked whales are at depth when they detect a ping from an active sonar transmission and change their dive profile, this could lead to the formation of significant gas bubbles, which could damage multiple organs or interfere with normal physiological function (Cox *et al.,* 2006; Rommel *et al.,* 2006; Zimmer and Tyack, 2007). Baird *et al.* (2005) found that slow ascent rates from deep dives and long periods of time spent within 50 m of the surface were typical for both Cuvier's and Blainville's beaked whales, the two species involved in mass strandings related to naval sonar. These two behavioral mechanisms may be necessary to purge excessive dissolved nitrogen concentrated in their tissues during their frequent long dives (Baird *et al.,* 2005). Baird *et al.* (2005) further suggests that abnormally rapid ascents or premature dives in response to high intensity sonar could indirectly result in physical harm to the beaked whales, through the mechanisms described above (gas bubble formation or non-elimination of excess nitrogen).

Because many species of marine mammals make repetitive and prolonged dives to great depths, it has long been assumed that marine mammals have evolved physiological mechanisms to protect against the effects of rapid and repeated decompressions. Although several investigators have identified physiological adaptations that may protect marine mammals against nitrogen gas supersaturation (alveolar collapse and elective circulation; Kooyman *et al.,* 1972; Ridgway and Howard, 1979), Ridgway and Howard (1979) reported that bottlenose dolphins that were trained to dive repeatedly had muscle tissues that were substantially supersaturated with nitrogen gas. Houser *et al.* (2001) used these data to model the accumulation of nitrogen gas within the muscle tissue of other marine mammal species and concluded that cetaceans that dive deep and have slow ascent or descent speeds would have tissues that are more supersaturated with nitrogen gas than other marine mammals. Based on these data, Cox *et al.* (2006) hypothesized that a critical dive sequence might make beaked whales more prone to stranding in response to acoustic exposures. The sequence began with (1) very deep (to depths as deep as 2 kilometers) and long (as long as 90 minutes) foraging dives with (2) relatively slow, controlled ascents, followed by (3) a series of ''bounce'' dives between 100 and 400 m (328 and 1,323 ft) in depth (also see Zimmer and Tyack, 2007). They concluded that acoustic exposures that disrupted any part of this dive sequence (for example, causing beaked whales to spend more time at surface without the bounce dives that are necessary to recover from the deep dive) could produce excessive levels of nitrogen supersaturation in their tissues, leading to gas bubble and emboli formation that produces pathologies similar to decompression sickness.

Recently, Zimmer and Tyack (2007) modeled nitrogen tension and bubble growth in several tissue compartments for several hypothetical dive profiles and concluded that repetitive shallow dives (defined as a dive where depth does not exceed the depth of alveolar collapse, approximately 72 m (236 ft) for *Ziphius*), perhaps as a consequence of an extended avoidance reaction to sonar sound, could pose a risk for decompression sickness and that this risk should increase with the duration

of the response. Their models also suggested that unrealistically more rapid ascent rates from normal dive behaviors are unlikely to result in supersaturation to the extent that bubble formation would be expected. Tyack *et al.* (2006) suggested that emboli observed in animals exposed to midfrequency range sonar (Jepson *et al.,* 2003; Fernandez *et al.,* 2005) could stem from a behavioral response that involves repeated dives shallower than the depth of lung collapse. Given that nitrogen gas accumulation is a passive process (i.e., nitrogen is metabolically inert), a bottlenose dolphin was trained to repetitively dive a profile predicted to elevate nitrogen saturation to the point that nitrogen bubble formation was predicted to occur. However, inspection of the vascular system of the dolphin via ultrasound did not demonstrate the formation of asymptomatic nitrogen gas bubbles (Houser *et al.,* 2007).

If marine mammals respond to a Navy vessel that is transmitting active sonar in the same way that they might respond to a predator, their probability of flight responses should increase when they perceive that Navy vessels are approaching them directly, because a direct approach may convey detection and intent to capture (Burger and Gochfeld, 1981, 1990; Cooper, 1997, 1998). The probability of flight responses should also increase as received levels of active sonar increase (and the vessel is, therefore, closer) and as vessel speeds increase (that is, as approach speeds increase). For example, the probability of flight responses in Dall's sheep (*Ovis dalli dalli*) (Frid, 2001a, b), ringed seals (*Phoca hispida*) (Born *et al.,* 1999), Pacific brant (*Branta bernic nigricans*) and Canada geese (*B. canadensis*) increased as a helicopter or fixed-wing aircraft approached groups of these animals more directly (Ward *et al.,* 1999). Bald eagles (*Haliaeetus leucocephalus*) perched on trees alongside a river were also more likely to flee from a paddle raft when their perches were closer to the river or were closer to the ground (Steidl and Anthony, 1996).

Despite the many theories involving bubble formation (both as a direct cause of injury (see Acoustically Mediated Bubble Growth Section) and an indirect cause of stranding (See Behaviorally Mediated Bubble Growth Section), Southall *et al.,* (2007) summarize that scientific disagreement or complete lack of information exists regarding the following important points: (1) Received acoustical exposure conditions for animals involved in stranding events; (2) pathological interpretation of observed lesions in stranded marine mammals; (3) acoustic exposure conditions required to induce such physical trauma directly; (4) whether noise exposure may cause behavioral reactions (such as atypical diving behavior) that secondarily cause bubble formation and tissue damage; and (5) the extent the post mortem artifacts introduced by decomposition before sampling, handling, freezing, or necropsy procedures affect interpretation of observed lesions.

Unlike those past stranding events that were coincident with military mid-frequency sonar use and were speculated to most likely have been caused by exposure to the sonar, those naval exercises involved multiple vessels in waters with steep bathymetry where deep channeling of sonar signals was more likely. The proposed NSWC PCD RDT&E activities would not involve multi-vessel operations and the bathymetry has none of the similarities where those mass strandings occurred. (e.g., Greece (1996); the Bahamas (2000); Madeira (2000); Canary Islands (2002); Hanalei Bay, Kaua'I, Hawaii (2004); and Spain (2006)). Consequently, because of the nature of the NSWC PCD operations (which involve low total hours of MFAS use, very limited use of high-powered surface vessel source, and no high-speed, multi-vessel training scenarios) and the fact that the NSWC PCD has none of the bathymetric features that have been associated with mass strandings in the past, NMFS concludes it is unlikely that sonar use would result in a stranding event in the NSWC PCD region.

Acoustic Effects: Exposure to Ordnance and Projectile Firing

Some of the Navy's RDT&E activities include the underwater detonation of explosives. For many of the exercises discussed, inert ordnance is used for a subset of the exercises. The underwater explosion from a weapon would send a shock wave and blast noise through the water, release gaseous by-products, create an oscillating bubble, and cause a plume of water to shoot up from the water surface. The shock wave and blast noise are of most concern to marine animals. Depending on the intensity of the shock wave and size, location, and depth of the animal, an animal can be injured, killed, suffer non-lethal physical effects, experience hearing-related effects with or without behavioral responses, or exhibit temporary behavioral responses or tolerance from hearing the blast sound. Generally, exposures to higher levels of impulse and pressure levels would result in worse impacts to an individual animal.

Injuries resulting from a shock wave take place at boundaries between tissues of different density. Different velocities are imparted to tissues of different densities, and this can lead to their physical disruption. Blast effects are greatest at the gas-liquid interface (Landsberg, 2000). Gas-containing organs, particularly the lungs and gastrointestinal tract, are especially susceptible (Goertner, 1982; Hill, 1978; Yelverton *et al.,* 1973). In addition, gas-containing organs including the nasal sacs, larynx, pharynx, trachea, and lungs may be damaged by compression/expansion caused by the oscillations of the blast gas bubble (Reidenberg and Laitman, 2003). Intestinal walls can bruise or rupture, with subsequent hemorrhage and escape of gut contents into the body cavity. Less severe gastrointestinal tract injuries include contusions, petechiae (small red or purple spots caused by bleeding in the skin), and slight hemorrhaging (Yelverton *et al.,* 1973).

Because the ears are the most susceptible to changes in pressure, they are the organs most sensitive to injury (Ketten, 2000). Sound-related damage associated with blast noise can be theoretically distinct from injury from the shock wave, particularly farther from the explosion. If an animal is able to hear a noise, at some level it can damage its hearing by causing decreased sensitivity (Ketten, 1995) (See Noise-induced Threshold Shift Section above). Sound-related trauma can be lethal or sublethal. Lethal impacts are those that result in immediate death or serious debilitation in or near an intense source and are not, technically, pure acoustic trauma (Ketten, 1995). Sublethal impacts include hearing loss, which is caused by exposures to perceptible sounds. Severe damage (from the shock wave) to the ears includes tympanic membrane rupture, fracture of the ossicles, damage to the cochlea, hemorrhage, and cerebrospinal fluid leakage into the middle ear. Moderate injury implies partial hearing loss due to tympanic membrane rupture and blood in the middle ear. Permanent hearing loss also can occur when the hair cells are damaged by one very loud event, as well as by prolonged exposure to a loud noise or chronic exposure to noise. The level of impact from blasts depends on both an animal's location and, at outer zones, on its sensitivity to the residual noise (Ketten, 1995).

There have been fewer studies addressing the behavioral effects of explosives on marine mammals than HFAS/MFAS. However, though the nature of the sound waves emitted from an explosion is different (in shape and

rise time) from HFAS/MFAS, we still anticipate the same sorts of behavioral responses (see Exposure to HFAS/MFAS: Behavioral Disturbance Section) to result from repeated explosive detonations (a smaller range of likely less severe responses would be expected to occur as a result of exposure to a single explosive detonation).

Estimated Take of Marine Mammals

With respect to the MMPA, NMFS' effects assessment serves four primary purposes: (1) To prescribe the permissible methods of taking (i.e., Level B Harassment (behavioral harassment), Level A harassment (injury), or mortality, including an identification of the number and types of take that could occur by Level A or B harassment or mortality) and to prescribe other means of effecting the least practicable adverse impact on such species or stock and its habitat (i.e., mitigation); (2) to determine whether the specified activity will have a negligible impact on the affected species or stocks of marine mammals (based on the likelihood that the activity will adversely affect the species or stock through effects on annual rates of recruitment or survival); (3) to determine whether the specified activity will have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (however, there are no subsistence communities that would be affected in the NSWC PCD Study Area, so this determination is inapplicable for this rulemaking); and (4) to prescribe requirements pertaining to monitoring and reporting.

In the Potential Effects of Exposure of Marine Mammal to HFAS/MFAS and Underwater Detonations sections, NMFS identifies the lethal responses, physical trauma, sensory impairment (permanent and temporary threshold shifts and acoustic masking), physiological responses (particular stress responses), and behavioral responses that could potentially result from exposure to HFAS/MFAS or underwater explosive detonations. In this section, we will relate the potential effects to marine mammals from HFAS/MFAS and underwater detonation of explosives to the MMPA regulatory definitions of Level A and Level B Harassment and attempt to quantify the effects that might occur from the specific RDT&E activities that the Navy is proposing in the NSWC PCD.

Definition of Harassment

As mentioned previously, with respect to military readiness activities, Section 3(18)(B) of the MMPA defines ''harassment'' as: (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A Harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B Harassment].

Level B Harassment

Of the potential effects that were described in the Potential Effects of Exposure of Marine Mammals to HFAS/MFAS and Underwater Detonations sections, the following are the types of effects that fall into the Level B Harassment category:

Behavioral Harassment—Behavioral disturbance that rises to the level described in the definition above, when resulting from exposures to HFAS/MFAS or underwater detonations, is considered Level B Harassment. Some of the lower level physiological stress responses will also likely co-occur with the predicted harassments, although these responses are more difficult to detect and fewer data exist relating these responses to specific received levels of sound. When Level B Harassment is predicted based on estimated behavioral responses, those takes may have a stress-related physiological component as well.

In the effects section above, we described the Southall *et al.,* (2007) severity scaling system and listed some examples of the three broad categories of behaviors: (0–3: Minor and/or brief behaviors); 4–6 (Behaviors with higher potential to affect foraging, reproduction, or survival); 7–9 (Behaviors considered likely to affect the aforementioned vital rates). Generally speaking, MMPA Level B Harassment, as defined in this document, would include the behaviors described in the 7–9 category, and a subset, dependent on context and other considerations, of the behaviors described in the 4–6 categories. Behavioral harassment generally does not include behaviors ranked 0–3 in Southall *et al.,* (2007).

Acoustic Masking and Communication Impairment—Acoustic masking is considered Level B Harassment as it can disrupt natural behavioral patterns by interrupting or limiting the marine mammal's receipt or transmittal of important information or environmental cues.

TTS—As discussed previously, TTS can affect how an animal behaves in response to the environment, including conspecifics, predators, and prey. The following physiological mechanisms are thought to play a role in inducing auditory fatigue: Effects to sensory hair cells in the inner ear that reduce their sensitivity, modification of the chemical environment within the sensory cells, residual muscular activity in the middle ear, displacement of certain inner ear membranes, increased blood flow, and post-stimulatory reduction in both efferent and sensory neural output. Ward (1997) suggested that when these effects result in TTS rather than PTS, they are within the normal bounds of physiological variability and tolerance and do not represent a physical injury. Additionally, Southall *et al.* (2007) indicate that although PTS is a tissue injury, TTS is not because the reduced hearing sensitivity following exposure to intense sound results primarily from fatigue, not loss, of cochlear hair cells and supporting structures and is reversible. Accordingly, NMFS classifies TTS (when resulting from exposure to either HFAS/MFAS or underwater detonations) as Level B Harassment, not Level A Harassment (injury).

Level A Harassment

Of the potential effects that were described in the Potential Effects of Exposure of Marine Mammal to HFAS/MFAS and Underwater Detonations Section, following are the types of effects that fall into the Level A Harassment category:

PTS—PTS (resulting either from exposure to HFAS/MFAS or explosive detonations) is irreversible and considered an injury. PTS results from exposure to intense sounds that cause a permanent loss of inner or outer cochlear hair cells or exceed the elastic limits of certain tissues and membranes in the middle and inner ears and results in changes in the chemical composition of the inner ear fluids.

Acoustically Mediated Bubble Growth—A few theories suggest ways in which gas bubbles become enlarged through exposure to intense sounds (HFAS/MFAS) to the point where tissue damage results. In rectified diffusion, exposure to a sound field would cause bubbles to increase in size. Alternately, bubbles could be destabilized by high level sound exposures such that bubble growth then occurs through static diffusion of gas out of the tissues. Tissue damage from either of these processes would be considered an injury.

Behaviorally Mediated Bubble Growth—Several authors suggest mechanisms in which marine mammals could behaviorally respond to exposure to HFAS/MFAS by altering their dive

patterns in a manner (unusually rapid ascent, unusually long series of surface dives, etc.) that might result in unusual bubble formation or growth ultimately resulting in tissue damage (emboli, etc.).

Physical Disruption of Tissues Resulting from Explosive Shock Wave—Physical damage of tissues resulting from a shock wave (from an explosive detonation) is classified as an injury. Blast effects are greatest at the gas-liquid interface (Landsberg, 2000) and gas-containing organs, particularly the lungs and gastrointestinal tract, are especially susceptible (Goertner, 1982; Hill 1978; Yelverton *et al.,* 1973). Nasal sacs, larynx, pharynx, trachea, and lungs may be damaged by compression/expansion caused by the oscillations of the blast gas bubble (Reidenberg and Laitman, 2003). Severe damage (from the shock wave) to the ears can include tympanic membrane rupture, fracture of the ossicles, damage to the cochlea, hemorrhage, and cerebrospinal fluid leakage into the middle ear.

Acoustic Take Criteria

For the purposes of an MMPA incidental take authorization, three types of take are identified: Level B harassment; Level A harassment; and mortality (or serious injury leading to mortality). The categories of marine mammal responses (physiological and behavioral) that fall into the two harassment categories were described in the previous section.

Because the physiological and behavioral responses of the majority of the marine mammals exposed to HFAS/MFAS and underwater detonations cannot be detected or measured, a method is needed to estimate the number of individuals that will be taken, pursuant to the MMPA, based on the proposed action. To this end, NMFS uses acoustic criteria that estimate at what received level (when exposed to HFAS/MFAS or explosive detonations) Level B Harassment, Level A Harassment, and mortality (for explosives) of marine mammals would occur. The acoustic criteria for HFAS/MFAS and Underwater Detonations are discussed below.

HFAS/MFAS Acoustic Criteria

Because relatively few applicable data exist to support acoustic criteria specifically for HFAS, and it is suspected that the majority of the adverse affects are from the MFAS due to their larger impact ranges, NMFS will apply the criteria developed for the MFAS to the HFAS as well.

NMFS utilizes three acoustic criteria for HFAS/MFAS: PTS (injury—Level A Harassment), behavioral harassment from TTS, and sub-TTS (Level B Harassment). Because the TTS and PTS criteria are derived similarly and the PTS criteria was extrapolated from the TTS data, the TTS and PTS acoustic criteria will be presented first, before the behavioral criteria.

For more information regarding these criteria, please see the Navy's DEIS for the NSWC PCD.

Level B Harassment Threshold (TTS)

As mentioned above, behavioral disturbance, acoustic masking, and TTS are all considered Level B Harassment. Marine mammals would usually be behaviorally disturbed at lower received levels than those at which they would likely sustain TTS, so the levels at which behavioral disturbance is likely to occur are considered the onset of Level B Harassment. The behavioral responses of marine mammals to sound are variable, context specific, and, therefore, difficult to quantify (see Risk Function section, below). TTS is a physiological effect that has been studied and quantified in laboratory conditions. NMFS also uses an acoustic criteria to estimate the number of marine mammals that might sustain TTS incidental to a specific activity (in addition to the behavioral criteria).

A number of investigators have measured TTS in marine mammals. These studies measured hearing thresholds in trained marine mammals before and after exposure to intense sounds. The existing cetacean TTS data are summarized in the following bullets.

- Schlundt *et al.* (2000) reported the results of TTS experiments conducted with 5 bottlenose dolphins and 2 belugas exposed to 1-second tones. This paper also includes a reanalysis of preliminary TTS data released in a technical report by Ridgway *et al.* (1997). At frequencies of 3, 10, and 20 kHz, sound pressure levels (SPLs) necessary to induce measurable amounts (6 dB or more) of TTS were between 192 and 201 dB re 1 microPa (EL = 192 to 201 dB re 1 microPa^2-s). The mean exposure SPL and EL for onset-TTS were 195 dB re 1 microPa and 195 dB re 1 microPa^2-s, respectively.
- Finneran *et al.* (2001, 2003, 2005) described TTS experiments conducted with bottlenose dolphins exposed to 3-kHz tones with durations of 1, 2, 4, and 8 seconds. Small amounts of TTS (3 to 6 dB) were observed in one dolphin after exposure to ELs between 190 and 204 dB re 1 microPa^2-s. These results were consistent with the data of Schlundt *et al.* (2000) and showed that the Schlundt *et al.* (2000) data were not significantly affected by the masking sound used. These results also confirmed that, for tones with different durations, the amount of TTS is best correlated with the exposure EL rather than the exposure SPL.
- Nachtigall *et al.* (2003) measured TTS in a bottlenose dolphin exposed to octave-band sound centered at 7.5 kHz. Nachtigall *et al.* (2003a) reported TTSs of about 11 dB measured 10 to 15 minutes after exposure to 30 to 50 minutes of sound with SPL 179 dB re 1 microPa (EL about 213 dB re microPa^2-s). No TTS was observed after exposure to the same sound at 165 and 171 dB re 1 microPa. Nachtigall *et al.* (2004) reported TTSs of around 4 to 8 dB 5 minutes after exposure to 30 to 50 minutes of sound with SPL 160 dB re 1 microPa (EL about 193 to 195 dB re 1 microPa^2-s). The difference in results was attributed to faster post-exposure threshold measurement—TTS may have recovered before being detected by Nachtigall *et al.* (2003). These studies showed that, for long duration exposures, lower sound pressures are required to induce TTS than are required for short-duration tones.
- Finneran *et al.* (2000, 2002) conducted TTS experiments with dolphins and belugas exposed to impulsive sounds similar to those produced by distant underwater explosions and seismic waterguns. These studies showed that, for very short-duration impulsive sounds, higher sound pressures were required to induce TTS than for longer-duration tones.

Some of the more important data obtained from these studies are onset-TTS levels (exposure levels sufficient to cause a just-measurable amount of TTS) often defined as 6 dB of TTS (for example, Schlundt *et al.,* 2000) and the fact that energy metrics (sound exposure levels (SEL), which include a duration component) better predict when an animal will sustain TTS than pressure (SPL) alone. NMFS' TTS criteria (which indicate the received level at which onset TTS (≤6dB) is induced) for HFAS/MFAS are as follows:

- Cetaceans—195 dB re 1 microPa^2-s (based on mid-frequency cetaceans—no published data exist on auditory effects of noise in low or high frequency cetaceans (Southall *et al.,* 2007).

A detailed description of how TTS criteria were derived from the results of the above studies may be found in Chapter 3 of Southall *et al.* (2007), as well as the Navy's NSWC PCD LOA application.

Level A Harassment Threshold (PTS)

For acoustic effects, because the tissues of the ear appear to be the most

susceptible to the physiological effects of sound, and because threshold shifts tend to occur at lower exposures than other more serious auditory effects, NMFS has determined that PTS is the best indicator for the smallest degree of injury that can be measured. Therefore, the acoustic exposure associated with onset-PTS is used to define the lower limit of the Level A harassment.

PTS data do not currently exist for marine mammals and are unlikely to be obtained due to ethical concerns. However, PTS levels for these animals may be estimated using TTS data from marine mammals and relationships between TTS and PTS that have been discovered through study of terrestrial mammals. NMFS uses the following acoustic criteria for injury:

• Cetaceans—215 dB re 1 microPa ^{2}-s (based on mid-frequency cetaceans—no published data exist on auditory effects of noise in low or high frequency cetaceans (Southall *et al.*, 2007).

These criteria are based on a 20 dB increase in SEL over that required for onset-TTS. Extrapolations from terrestrial mammal data indicate that PTS occurs at 40 dB or more of TS, and that TS growth occurs at a rate of approximately 1.6 dB TS per dB increase in EL. There is a 34-dB TS difference between onset-TTS (6 dB) and onset-PTS (40 dB). Therefore, an animal would require approximately 20-dB of additional exposure (34 dB divided by 1.6 dB) above onset-TTS to reach PTS. A detailed description of how TTS criteria were derived from the results of the above studies may be found in Chapter 3 of Southall *et al.* (2007), as well as the Navy's NSWC PCD LOA application. Southall *et al.* (2007) recommend a precautionary dual criteria for TTS (230 dB re 1 microPa (SPL) in addition to 215 re 1 microPa ^{2}-s (SEL)) to account for the potentially damaging transients embedded within non-pulse exposures. However, in the case of HFAS/MFAS, the distance at which an animal would receive 215 (SEL) is farther from the source than the distance at which they would receive 230 (SPL) and therefore, it is not necessary to consider 230 dB.

We note here that behaviorally mediated injuries (such as those that have been hypothesized as the cause of some beaked whale strandings) could potentially occur in response to received levels lower than those believed to directly result in tissue damage. As mentioned previously, data to support a quantitative estimate of these potential effects (for which the exact mechanism is not known and in which factors other than received level may play a significant role) do not exist.

Level B Harassment Risk Function (Behavioral Harassment)

The first MMPA authorization for take of marine mammals incidental to tactical active sonar was issued in 2006 for Navy Rim of the Pacific training exercises in Hawaii. For that authorization, NMFS used 173 dB SEL as the criterion for the onset of behavioral harassment (Level B Harassment). This type of single number criterion is referred to as a step function, in which (in this example) all animals estimated to be exposed to received levels above 173 dB SEL would be predicted to be taken by Level B Harassment and all animals exposed to less than 173 dB SEL would not be taken by Level B Harassment. As mentioned previously, marine mammal behavioral responses to sound are highly variable and context specific (affected by differences in acoustic conditions; differences between species and populations; differences in gender, age, reproductive status, or social behavior; or the prior experience of the individuals), which does not support the use of a step function to estimate behavioral harassment.

Unlike step functions, acoustic risk continuum functions (which are also called ''exposure-response functions,'' ''dose-response functions,'' or ''stress response functions'' in other risk assessment contexts) allow for probability of a response that NMFS would classify as harassment to occur over a range of possible received levels (instead of one number) and assume that the probability of a response depends first on the ''dose'' (in this case, the received level of sound) and that the probability of a response increases as the ''dose'' increases. The Navy and NMFS have previously used acoustic risk functions to estimate the probable responses of marine mammals to acoustic exposures in the Navy FEISs on the SURTASS LFA sonar (DoN, 2001c) and the North Pacific Acoustic Laboratory experiments conducted off the Island of Kauai (ONR, 2001). The specific risk functions used here were also used in the MMPA regulations and FEIS for Hawaii Range Complex (HRC), Southern California Range Complex (SOCAL), and Atlantic Fleet Active Sonar Testing (AFAST). As discussed in the Effects section, factors other than received level (such as distance from or bearing to the sound source) can affect the way that marine mammals respond; however, data to support a quantitative analysis of those (and other factors) do not currently exist. NMFS will continue to modify these criteria as new data become available.

To assess the potential effects on marine mammals associated with active sonar used during training activity the Navy and NMFS applied a risk function that estimates the probability of behavioral responses that NMFS would classify as harassment for the purposes of the MMPA given exposure to specific received levels of MFA sonar. The mathematical function is derived from a solution in Feller (1968) as defined in the SURTASS LFA Sonar Final OEIS/EIS (DoN, 2001), and relied on in the Supplemental SURTASS LFA Sonar EIS (DoN, 2007a) for the probability of MFA sonar risk for MMPA Level B behavioral harassment with input parameters modified by NMFS for MFA sonar for mysticetes and odontocetes (NMFS, 2008). The same risk function and input parameters will be applied to high frequency active (HFA) (<10 kHz) sources until applicable data becomes available for high frequency sources.

In order to represent a probability of risk, the function should have a value near zero at very low exposures, and a value near one for very high exposures. One class of functions that satisfy this criterion is cumulative probability distributions, a type of cumulative distribution function. In selecting a particular functional expression for risk, several criteria were identified:

• The function must use parameters to focus discussion on areas of uncertainty;

• The function should contain a limited number of parameters;

• The function should be capable of accurately fitting experimental data; and

• The function should be reasonably convenient for algebraic manipulations.

As described in U.S. Department of the Navy (2001), the mathematical function below is adapted from a solution in Feller (1968).

$$R = \frac{1-\left(\frac{L-B}{K}\right)^{-A}}{1-\left(\frac{L-B}{K}\right)^{-2A}}$$

Where:
R = Risk (0–1.0)
L = Received level (dB re: 1 μPa)
B = Basement received level = 120 dB re: 1 μPa
K = Received level increment above B where 50 percent risk = 45 dB re: 1 μPa
A = Risk transition sharpness parameter = 10 (odontocetes) or 8 (mysticetes)

In order to use this function to estimate the percentage of an exposed population that would respond in a manner that NMFS classifies as Level B harassment, based on a given received level, the values for B, K and A need to be identified.

B Parameter (Basement)—The B parameter is the estimated received level below which the probability of disruption of natural behavioral patterns, such as migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered approaches zero for the HFAS/MFAS risk assessment. At this received level, the curve would predict that the percentage of the exposed population that would be taken by Level B Harassment approaches zero. For HFAS/MFAS, NMFS has determined that B = 120 dB. This level is based on a broad overview of the levels at which many species have been reported responding to a variety of sound sources.

K Parameter (representing the 50 percent Risk Point)—The K parameter is based on the received level that corresponds to 50 percent risk, or the received level at which we believe 50 percent of the animals exposed to the designated received level will respond in a manner that NMFS classifies as Level B Harassment. The K parameter (K = 45 dB) is based on three datasets in which marine mammals exposed to mid-frequency sound sources were reported to respond in a manner that NMFS would classify as Level B Harassment. There is widespread consensus that marine mammal responses to HFA/MFA sound signals need to be better defined using controlled exposure experiments (Cox *et al.,* 2006; Southall *et al.,* 2007). The Navy is contributing to an ongoing behavioral response study in the Bahamas that is expected to provide some initial information on beaked whales, the species identified as the most sensitive to MFAS. NMFS is leading this international effort with scientists from various academic institutions and research organizations to conduct studies on how marine mammals respond to underwater sound exposures. Until additional data is available, however, NMFS and the Navy have determined that the following three data sets are most applicable for the direct use in establishing the K parameter for the HFAS/MFAS risk function. These data sets, summarized below, represent the only known data that specifically relate altered behavioral responses (that NMFS would consider Level B Harassment) to exposure to HFAS/MFAS sources.

Even though these data are considered the most representative of the proposed specified activities, and therefore the most appropriate on which to base the K parameter (which basically determines the midpoint) of the risk function, these data have limitations, which are discussed in Appendix J of the Navy's EIS for the NSWC PCD .

1. Controlled Laboratory Experiments with Odontocetes (SSC Dataset)—Most of the observations of the behavioral responses of toothed whales resulted from a series of controlled experiments on bottlenose dolphins and beluga whales conducted by researchers at SSC's facility in San Diego, California (Finneran *et al.,* 2001, 2003, 2005; Finneran and Schlundt, 2004; Schlundt *et al.,* 2000). In experimental trials (designed to measure TTS) with marine mammals trained to perform tasks when prompted, scientists evaluated whether the marine mammals performed these tasks when exposed to mid-frequency tones. Altered behavior during experimental trials usually involved refusal of animals to return to the site of the sound stimulus, but also included attempts to avoid an exposure in progress, aggressive behavior, or refusal to further participate in tests.

Finneran and Schlundt (2004) examined behavioral observations recorded by the trainers or test coordinators during the Schlundt *et al.* (2000) and Finneran *et al.* (2001, 2003, 2005) experiments. These included observations from 193 exposure sessions (fatiguing stimulus level > 141 dB re 1microPa) conducted by Schlundt *et al.* (2000) and 21 exposure sessions conducted by Finneran et al. (2001, 2003, 2005). The TTS experiments that supported Finneran and Schlundt (2004) are further explained below:

- Schlundt *et al.* (2000) provided a detailed summary of the behavioral responses of trained marine mammals during TTS tests conducted at SSC San Diego with 1-sec tones and exposure frequencies of 0.4 kHz, 3 kHz, 10 kHz, 20 kHz and 75 kHz. Schlundt *et al.* (2000) reported eight individual TTS experiments. The experiments were conducted in San Diego Bay. Because of the variable ambient noise in the bay, low-level broadband masking noise was used to keep hearing thresholds consistent despite fluctuations in the ambient noise. Schlundt *et al.* (2000) reported that ''behavioral alterations,'' or deviations from the behaviors the animals being tested had been trained to exhibit, occurred as the animals were exposed to increasing fatiguing stimulus levels.
- Finneran *et al.* (2001, 2003, 2005) conducted 2 separate TTS experiments using 1-sec tones at 3 kHz. The test methods were similar to that of Schlundt *et al.* (2000) except the tests were conducted in a pool with very low ambient noise level (below 50 dB re 1 microPa^2/Hz), and no masking noise was used. In the first, fatiguing sound levels were increased from 160 to 201 dB SPL. In the second experiment, fatiguing sound levels between 180 and 200 dB SPL were randomly presented.

Bottlenose dolphins exposed to 1-sec intense tones exhibited short-term changes in behavior above received sound levels of 178 to 193 dB re 1 microPa (rms), and beluga whales did so at received levels of 180 to 196 dB and above.

2. Mysticete Field Study (Nowacek *et al.,* 2004)—The only available and applicable data relating mysticete responses to exposure to mid-frequency sound sources is from Nowacek *et al.* (2004). Nowacek *et al.* (2004) documented observations of the behavioral response of North Atlantic right whales exposed to alert stimuli containing mid-frequency components in the Bay of Fundy. Investigators used archival digital acoustic recording tags (DTAG) to record the behavior (by measuring pitch, roll, heading, and depth) of right whales in the presence of an alert signal, and to calibrate received sound levels. The alert signal was 18 minutes of exposure consisting of three 2-minute signals played sequentially three times over. The three signals had a 60 percent duty cycle and consisted of: (1) Alternating 1-sec pure tones at 500 Hz and 850 Hz; (2) a 2-sec logarithmic down-sweep from 4,500 Hz to 500 Hz; and (3) a pair of low (1,500 Hz)-high (2,000 Hz) sine wave tones amplitude modulated at 120 Hz and each 1-sec long. The purposes of the alert signal were (a) to pique the mammalian auditory system with disharmonic signals that cover the whales' estimated hearing range; (b) to maximize the signal to noise ratio (obtain the largest difference between background noise) and c) to provide localization cues for the whale. The maximum source level used was 173 dB SPL.

Nowacek *et al.* (2004) reported that five out of six whales exposed to the alert signal with maximum received levels ranging from 133 to 148 dB re 1 microPa significantly altered their regular behavior and did so in identical fashion. Each of these five whales: (i) Abandoned their current foraging dive prematurely as evidenced by curtailing their 'bottom time'; (ii) executed a shallow-angled, high power (i.e. significantly increased fluke stroke rate) ascent; (iii) remained at or near the surface for the duration of the exposure, an abnormally long surface interval; and (iv) spent significantly more time at subsurface depths (1–10 m) compared with normal surfacing periods when whales normally stay within 1 m (1.1 yd) of the surface.

3. Odontocete Field Data (Haro Strait—USS SHOUP)—In May 2003, killer whales were observed exhibiting behavioral responses generally described as avoidance behavior while the U.S. Ship (USS) SHOUP was engaged in MFAS in the Haro Strait in the vicinity of Puget Sound, Washington. Those observations have been documented in three reports developed by Navy and NMFS (NMFS, 2005a; Fromm, 2004a, 2004b; DON, 2003). Although these observations were made in an uncontrolled environment, the sound field that may have been associated with the sonar operations was estimated using standard acoustic propagation models that were verified (for some but not all signals) based on calibrated in situ measurements from an independent researcher who recorded the sounds during the event. Behavioral observations were reported for the group of whales during the event by an experienced marine mammal biologist who happened to be on the water studying them at the time. The observations associated with the USS SHOUP provide the only data set available of the behavioral responses of wild, non-captive animal upon actual exposure to AN/SQS–53 sonar.

U.S. Department of Commerce (NMFS, 2005a); U.S. Department of the Navy (2004b); Fromm (2004a, 2004b) documented reconstruction of sound fields produced by USS SHOUP associated with the behavioral response of killer whales observed in Haro Strait. Observations from this reconstruction included an approximate closest approach time which was correlated to a reconstructed estimate of received level (which ranged from 150 to 180 dB) at an approximate whale location with a mean value of 169.3 dB SPL.

Calculation of K Parameter—NMFS and the Navy used the mean of the following values to define the midpoint of the function: (1) The mean of the lowest received levels (185.3 dB) at which individuals responded with altered behavior to 3 kHz tones in the SSC data set; (2) the estimated mean received level value of 169.3 dB produced by the reconstruction of the USS SHOUP incident in which killer whales exposed to MFA sonar (range modeled possible received levels: 150 to 180 dB); and (3) the mean of the 5 maximum received levels at which Nowacek *et al.* (2004) observed significantly altered responses of right whales to the alert stimuli than to the control (no input signal) is 139.2 dB SPL. The arithmetic mean of these three mean values is 165 dB SPL. The value of K is the difference between the value of B (120 dB SPL) and the 50 percent value of 165 dB SPL; therefore, K=45.

A Parameter (Steepness)—NMFS determined that a steepness parameter (A)=10 is appropriate for odontocetes (except harbor porpoises) and pinnipeds and A=8 is appropriate for mysticetes.

The use of a steepness parameter of A=10 for odontocetes (except harbor porpoises) for the HFAS/MFAS risk function was based on the use of the same value for the SURTASS LFA risk continuum, which was supported by a sensitivity analysis of the parameter presented in Appendix D of the SURTASS/LFA FEIS (DON, 2001c). As concluded in the SURTASS FEIS/EIS, the value of A=10 produces a curve that has a more gradual transition than the curves developed by the analyses of migratory gray whale studies (Malme *et al.,* 1984; Buck and Tyack, 2000; and SURTASS LFA Sonar EIS, Subchapters 1.43, 4.2.4.3 and Appendix D, and NMFS, 2008).

NMFS determined that a lower steepness parameter (A=8), resulting in a shallower curve, was appropriate for use with mysticetes and HFAS/MFAS. The Nowacek *et al.* (2004) dataset contains the only data illustrating mysticete behavioral responses to a mid-frequency sound source. A shallower curve (achieved by using A=8) better reflects the risk of behavioral response at the relatively low received levels at which behavioral responses of right whales were reported in the Nowacek *et al.* (2004) data. Compared to the odontocete curve, this adjustment results in an increase in the proportion of the exposed population of mysticetes being classified as behaviorally harassed at lower RLs, such as those reported in and is supported by the only dataset currently available.

Basic Application of the Risk Function—The risk function is used to estimate the percentage of an exposed population that is likely to exhibit behaviors that would qualify as harassment (as that term is defined by the MMPA applicable to military readiness activities, such as the Navy's testing and research activities with HFA/MFA sonar) at a given received level of sound. For example, at 165 dB SPL (dB re: 1 microPa rms), the risk (or probability) of harassment is defined according to this function as 50 percent, and Navy/NMFS applies that by estimating that 50 percent of the individuals exposed at that received level are likely to respond by exhibiting behavior that NMFS would classify as behavioral harassment. The risk function is not applied to individual animals, only to exposed populations.

The data primarily used to produce the risk function (the K parameter) were compiled from four species that had been exposed to sound sources in a variety of different circumstances. As a result, the risk function represents a general relationship between acoustic exposures and behavioral responses that is then applied to specific circumstances. That is, the risk function represents a relationship that is deemed to be generally true, based on the limited, best-available science, but may not be true in specific circumstances. In particular, the risk function, as currently derived, treats the received level as the only variable that is relevant to a marine mammal's behavioral response. However, we know that many other variables—the marine mammal's gender, age, and prior experience; the activity it is engaged in during an exposure event, its distance from a sound source, the number of sound sources, and whether the sound sources are approaching or moving away from the animal—can be critically important in determining whether and how a marine mammal will respond to a sound source (Southall *et al.*, 2007). The data that are currently available do not allow for incorporation of these other variables in the current risk functions; however, the risk function represents the best use of the data that are available (Figure 1).

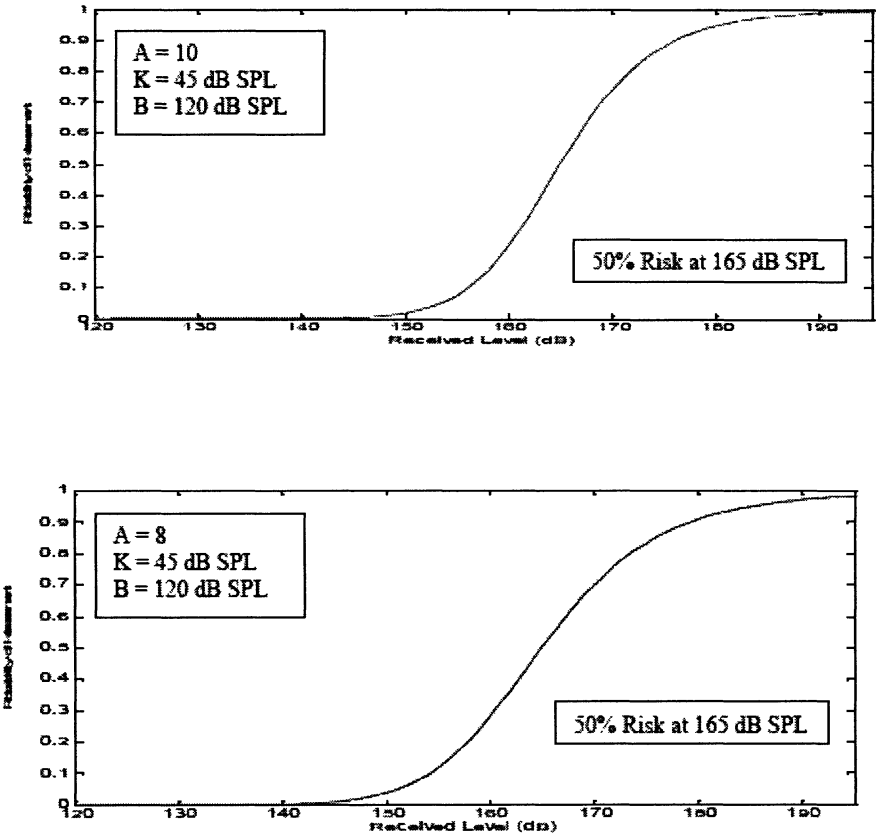

Figure 1. Risk Functions for Odontocetes (above) and Mysticetes (below).

As more specific and applicable data become available for HFAS/MFAS sources, NMFS can use these data to modify the outputs generated by the risk function to make them more realistic. Ultimately, data may exist to justify the use of additional, alternate, or multivariate functions. For example, as mentioned previously, the distance from the sound source and whether it is perceived as approaching or moving away can affect the way an animal responds to a sound (Wartzok *et al.*, 2003).

Explosive Detonation Criteria

Acoustic Effects: Ordnance

Live ordnance testing may occur from the surf zone out to the outer perimeter of the NSWC PCD Study Area. The size and weight of the explosives used would vary from 0.91 to 272 kg (2 to 600 lb) trinitrotoluene (TNT) equivalent net explosive weight (NEW). No detonations over 34 kg (75 lb) NEW will be conducted within the territorial waters of the NSWC PCD Study Area. Operations involving live explosives include mine detonations and surf zone line charge detonations.

Underwater detonations may project pressure and sound intensities sufficient to cause physical trauma or acoustic or behavioral effects to protected marine mammals. Determining the potential exposures associated with ordnance operations is very similar to determining potential exposures associated with sonar operations described above.

Metrics: Underwater Explosive Sound

Four standard acoustic metrics for measuring underwater pressure waves were used in this analysis:

- Total Energy Flux Density Level (EFD)
- ⅓-Octave EFD
- Positive Impulse
- Peak Pressure

Total EFD—Total EFD is the metric used for analyzing the level of sound that would cause a permanent decrease in hearing sensitivity. Decibels are used to express this metric.

⅓-Octave EFD—One-third octave EFD is the metric used in discussions of temporary (i.e., recoverable) hearing loss and for behavioral response thresholds of protected species to sound. One-third octave EFD is the energy flux density in the ⅓-octave frequency band at which the animal potentially exposed hears best. Decibels are also used to express this metric. This metric is used for analyzing underwater detonations.

Positive Impulse—Positive impulse is the metric used for analyzing lethal sound levels, as well as sound that marks the onset of slight lung injury in cetaceans. Positive impulse as it is used here is based on an equation modified by Goertner (1982); thus it is more completely stated as the Goertner-modified positive impulse. The units to express this metric are pounds per square inch millisecond (psi-ms).

Peak Pressure—This is the maximum positive pressure for an arrival of a sound pressure wave that a marine mammal would receive at some distance away from a detonation. Units used here are pounds per square inch (psi) and dB levels.

Criteria and Thresholds for Explosive Sound

Criteria and thresholds for estimating the effects on protected species including marine mammals and sea turtles from a single explosive event were established and publicly vetted through the NEPA process during the Seawolf Submarine Shock Test FEIS (''Seawolf'') and the USS Winston S. Churchill (DDG–81) Ship Shock FEIS (''Churchill'') (DON, 2001). These

criteria and thresholds were adopted by NMFS in its final rule on unintentional taking of marine animals incidental to the shock testing. The risk assessment approach for all gunfire-related sound in water was derived from the Seawolf/Churchill approach.

Criteria and Thresholds for Physiological Effects to Explosive Sound

The criterion for mortality for marine mammals used in the Churchill FEIS is ''onset of severe lung injury.'' This criterion is conservative in that it corresponds to a 1 percent chance of mortal injury, and yet any animal experiencing onset severe lung injury is counted as a lethal exposure. The threshold is stated in terms of the Goertner (1982) modified positive impulse with value ''indexed to 31 psi-msec.'' Since the Goertner approach depends on propagation, source/animal depths, and animal mass in a complex way, the actual impulse value corresponding to the 31 psi-msec index is a complicated calculation. Again, to be conservative, Churchill used the mass of a calf dolphin (at 12.2 kg or 26.9 lb), so that the threshold index is 30.5 psi-msec.

Dual criteria are used for injury: 50 percent eardrum rupture (i.e., tympanic membrane [TM] rupture) and onset of slight lung injury. These criteria are considered indicative of the onset of injury. The threshold for TM rupture corresponds to a 50 percent rate of rupture (i.e., 50 percent of animals exposed to the level are expected to suffer TM); this is stated in terms of an EL value of 1.17 inches pound per square inch (in-lb/in^2) (about 205 dB re 1 microPa^2-s). This recognizes that TM rupture is not necessarily a serious or life-threatening injury but is a useful index of possible injury that is well-correlated with measures of permanent hearing impairment (e.g., Ketten (1998) indicates a 30 percent incidence of PTS at the same threshold).

The threshold for onset of slight lung injury is calculated for a calf dolphin (12.2 kg, or 27 lb); it is given in terms of the ''Goertner modified positive impulse,'' indexed to 13 psi-ms. This is a departure from the Churchill and Seawolf approaches in the use of animal mass in the Goertner threshold for slight lung injury. In this assessment, cetaceans are assessed as calves, defined as those with mass less than 174 kg (384 lb). The associated threshold is indexed to 13 psi-msec, which corresponds to a calf dolphin at 12.2 kg (27 lb) (DON, 2001).

The first criterion for non-injurious harassment is TTS, which is defined as a temporary, recoverable loss of hearing sensitivity (NMFS, 2001; DON, 2001). The criterion for TTS is 182 dB re 1 microPa^2-s, which is the greatest energy flux density level in any ⅓-octave band at frequencies above 100 Hz for marine mammals.

The second criterion for estimating TTS threshold applies to all cetacean species and is stated in terms of peak pressure at 23 psi. The threshold is derived from the Churchill threshold which was subsequently adopted by NMFS in its Final Rule on the unintentional taking of marine animals incidental to the shock testing (NMFS, 2001). The original criteria in Churchill incorporated 12 psi. The current criteria and threshold for peak pressure over all exposures was updated from 12 psi to 23 psi for explosives less than 907 kg (2,000 lb) based on an IHA issued to the Air Force for a similar action (NOAA, 2006a). Peak pressure and energy scale at different rates with charge weight, so that ranges based on the peak-pressure threshold are much greater than those for the energy metric when charge weights are small, even when source and animal are away from the surface. In order to more accurately estimate TTS for smaller shots while preserving the safety feature provided by the peak pressure threshold, the peak pressure threshold is appropriately scaled for small shot detonations. This scaling is based on the similitude formulas (e.g., Urick, 1983) used in virtually all compliance documents for short ranges. Further, the peak-pressure threshold for marine mammal TTS for explosives offers a safety margin for source or animal near the ocean surface.

Criteria and Thresholds for Behavioral Effects to Explosive Sound

For a single explosion, to be consistent with Churchill, TTS is the criterion for Level B harassment. In other words, because behavioral disturbance for a single explosion is likely to be limited to a short-lived startle reaction, use of the TTS criterion is considered sufficient protection. Behavioral modification (sub-TTS) is only applied to successive detonations. Table 5 summarizes the criteria and thresholds used in calculating the potential impacts to marine mammal from explosive sound.

TABLE 5—EFFECTS, CRITERIA, AND THRESHOLDS FOR EXPLOSIVE DETONATIONS

Effect	Criteria	Metric	Threshold	Effect
Mortality	Onset of Severe Lung Injury (1% probability of mortality).	Goertner modified positive impulse.	indexed to 30.5 psi-msec (assumes 100 percent small animal at 26.9 lbs).	Mortality.
Injurious Physiological	Onset Slight Lung Injury	Goertner modified positive impulse.	indexed to 13 psi-msec (assumes 100 percent small animal at 26.9 lbs).	Level A.
Injurious Physiological	50% Tympanic Membrane Rupture.	Energy flux density	1.17 in-lb/in^2 (about 205 dB re 1 microPa^2-sec).	Level A.
Non-injurious Physiological.	TTS	Greatest energy flux density level in any ⅓-octave band (>100 Hz for toothed whales and >10 Hz for baleen whales)—for total energy over all exposures.	182 dB re 1 microPa^2-sec	Level B.
Non-injurious Physiological.	TTS	Peak pressure over all exposures	23 psi	Level B.
Non-injurious Behavioral.	Multiple Explosions Without TTS	Greatest energy flux density level in any ⅓-octave (>100 Hz for toothed whales and >10 Hz for baleen whales)—for total energy over all exposures (multiple explosions only).	177 dB re 1 microPa^2-sec	Level B.

Acoustic Effects: Projectile Firing

Projectile firing includes the use of inert rounds of ammunition as well as high-explosive (HE) 5-in gun-rounds. The primary concern with respect to projectile firing and marine mammals encompasses the potential sound effects associated with their detonations. The same thresholds were used to analyze projectile firing as the previous section on ordnance operations. Modeling took into account the firing of single shots separated in time.

Estimated Exposures of Marine Mammals

Marine Mammal Exposures Due to HFAS/MFAS Operations

Acoustical modeling provides an estimate of the actual exposures. Detailed information and formulas to model the effects of sonar from RDT&E activities in the NSWC PCD Study Area is provided in Appendix A, Supplemental Information for Underwater Noise Analysis of the LOA application.

The quantitative analysis was based on conducting sonar operations in 16 different geographical regions, or provinces. Using combined marine mammal density and depth estimates, acoustical modeling was conducted to calculate the actual exposures. Refer to Appendix B, Geographic Description of Environmental Provinces of the LOA application, for additional information on provinces. Refer to Appendix C, Definitions and Metrics for Acoustic Quantities of the LOA application, for additional information regarding the acoustical analysis.

The approach for estimating potential acoustic effects from NSWC PCD RDT&E activities on cetacean species uses the methodology that the DON developed in cooperation with NOAA for the Navy's USWTR Draft OEIS/EIS (2005), Undersea Warfare Exercise (USWEX) Environmental Assessment (EA)/ Overseas Environmental Assessment (OEA) (U.S. DON, 45, 2007a), RIMPAC EA/OEA (DON, Commander Third Fleet, 2006), Composite Training Unit Exercises (COMPTUEX)/Joint Task Force Exercises (JTFEX) EA/OEA (DON, 2007b), and HRC Draft EIS (DON, 2007c). The exposure analysis for behavioral response to sound in the water uses energy flux density for Level A harassment and the methods for risk function for Level B harassment (behavioral). The methodology is provided here to determine the number and species of marine mammals for which incidental take authorization is requested.

To estimate acoustic effects from the NSWC PCD RDT&E activities, acoustic sources to be used were examined with regard to their operational characteristics as described in the previous section. In addition, systems with an operating frequency greater than 200 kHz were not analyzed in the detailed modeling as these signals attenuate rapidly, resulting in very short propagation distances. Acoustic countermeasures were previously examined and found not to be problematic. These acoustic sources, therefore, did not require further examination in this analysis. Based on the information above, the Navy modeled the following systems:

- Kingfisher
- Sub-bottom profilers
- SAS–LFs and SAS–HFs
- Modems
- AN/SQQ–32
- BPAUVs
- ACL
- TVSS
- F84Y
- AN/AQS–20
- Navigation systems

Sonar parameters including source levels, ping length, the interval between pings, output frequencies, directivity (or angle), and other characteristics were based on records from previous test scenarios and projected future testing. Additional information on sonar systems and their associated parameters is in Appendix A, Supplemental Information for Underwater Noise Analysis of the LOA application.

Every active sonar operation has the potential of exposing marine animals in the neighboring waters. The number of animals exposed to the sonar in any such action is dictated by the propagation field and the manner in which the sonar is operated (i.e., source level, depth, frequency, pulse length, directivity, platform speed, repetition rate). The modeling for NSWC PCD RDT&E activities involving sonar occurred in five broad steps, listed below and was conducted based on the typical RDT&E activities planned for the NSWC PCD Study Area.

Step 1. Environmental Provinces. The NSWC PCD Study Area is divided into 16 environmental provinces, and each has a unique combination of environmental conditions. These represent various combinations of eight bathymetry provinces, one Sound Velocity Profile (SVP) province, and three Low-Frequency Bottom Loss geo-acoustic provinces and two High-Frequency Bottom Loss classes. These are addressed by defining eight fundamental environments in two seasons that span the variety of depths, bottom types, sound speed profiles, and sediment thicknesses found in the NSWC PCD Study Area. The two seasons encompass winter and summer, which are the two extremes and for the GOM, the acoustic propagation characteristics do not vary significantly between the two. Each marine modeling area can be quantitatively described as a unique combination of these environments.

Step 2. Transmission Loss. Since sound propagates differently in these environments, separate transmission loss calculations must be made for each, in both seasons. The transmission loss is predicted using Comprehensive Acoustic Simulation System/Gaussian Ray Bundle (CASS–GRAB) sound modeling software.

Step 3. Exposure Volumes. The transmission loss, combined with the source characteristics, gives the energy field of a single ping. The energy of over 10 hours of pinging is summed, carefully accounting for overlap of several pings, so an accurate average exposure of an hour of pinging is calculated for each depth increment. At more than ten hours, the source is too far away and the energy is negligible. In addition, the acoustic modeling takes into account the use of a single system. Only one source will operate at any one time during NSWC PCD RDT&E activities.

Repeating this calculation for each environment in each season gives the hourly ensonified volume, by depth, for each environment and season. This step begins the method for risk function modeling.

Step 4. Marine Mammal Densities. The marine mammal densities were given in two dimensions, but using reliable peer-reviewed literature sources (published literature and agency reports) described in the following subsection, the depth regimes of these marine mammals are used to project the two dimensional densities (expressed as the number of animals per area where all individuals are assumed to be at the water's surface) into three dimensions (a volumetric approach whereby two-dimensional animal density incorporates depth into the calculation estimates).

Step 5. Exposure Calculations. Each marine mammal's three-dimensional (3–D) density is multiplied by the calculated impact volume to that marine mammal depth regime. This value is the number of exposures per hour for that particular marine mammal. In this way, each marine mammal's exposure count per hour is based on its density, depth habitat, and the ensonified volume by depth.

The planned sonar hours for each system were inserted and a cumulative number of exposures were determined for each alternative.

As previously mentioned, NSWC PCD RDT&E activities involve mid-frequency sonar operation for only 6 percent of operational hours. Furthermore, testing generally involves short-term use and single systems at a time. Appendix A, Supplemental Information for Underwater Noise Analysis of the LOA application, includes specific formulas and more detailed information.

Marine Mammal Sonar Exposures in Territorial Waters

Sonar operations in territorial waters may expose bottlenose dolphins and Atlantic spotted dolphins to sound likely to result in Level B (behavioral) harassment. In addition, three bottlenose dolphins and two Atlantic spotted dolphins may be exposed to levels of sound likely to result in TTS (Table 6).

TABLE 6—ESTIMATES OF MARINE MAMMAL EXPOSURES FROM SONAR MISSIONS IN TERRITORIAL WATERS PER YEAR

Marine mammal species	Level A	Level B (TTS)	Level B (behavioral)
Bottlenose dolphin	0	3	521
Atlantic spotted dolphin	0	2	408

Marine Mammal Sonar Exposures in Non-Territorial Waters

Sonar operations in non-territorial waters may expose up to ten species to sound likely to result in Level B (behavioral) harassment (Table 7). They include the sperm whale, Risso's dolphin, rough-toothed dolphin, bottlenose dolphin, Atlantic bottlenose dolphin, Atlantic spotted dolphin, pantropical spotted dolphin, striped dolphin, spinner dolphin, Clymene dolphin, melon-headed whale, and short-finned pilot whale. In addition, sonar operations in non-territorial waters may expose up to one bottlenose dolphin and one Atlantic spotted dolphin to levels of sound likely to result in TTS. Marine mammals are likely to incur only Level B harassment from sonar exercises in non-territorial waters.

TABLE 7—ESTIMATES OF MARINE MAMMAL EXPOSURES FROM SONAR MISSIONS IN NON-TERRITORIAL WATERS PER YEAR

Marine mammal species	Level A	Level B (TTS)	Level B (behavioral)
Bryde's whale	0	0	0
Sperm whale	0	0	1
Dwarf/Pygmy sperm whale	0	0	0
All beaked whales	0	0	0
Killer whale	0	0	0
False killer whale	0	0	0
Pygmy killer whale	0	0	0
Melon-headed whale	0	0	1
Short-finned pilot whale	0	0	1
Risso's dolphin	0	0	1
Rough-toothed dolphin	0	0	0
Bottlenose dolphin	0	1	46
Atlantic spotted dolphin	0	1	39
Pantropical spotted dolphin	0	0	16
Striped dolphin	0	0	3
Spinner dolphin	0	0	13
Clymene dolphin	0	0	5
Fraser's dolphin	0	0	0

Marine Mammal Exposures Due to Ordnance

Calculation Methods

An overview of the methods to determine the number of exposures of MMPA-protected species to sound likely to result in mortality, Level A harassment (injury), or Level B harassment is provided in the following paragraphs. Appendix A, ''Supplemental Information for Underwater Noise Analysis'' of the LOA application, includes specific formulas and more detailed information.

Acoustic threshold areas are derived from mathematical calculations and models that predict the distances or range to which threshold sound levels will travel. Sound is assumed to spread more or less spherically. Therefore, the range of influence is the radius of an ensonified area (the area exposed to sound). The equations for the models consider the amount of net explosive and the properties of detonations under water as well as environmental factors such as depth of the explosion, overall water depth, water temperature, and bottom type. Various combinations of these environmental factors result in a number of environmental provinces.

The result of the calculations and/or modeling is a volume. There are separate volumes for mortality, harassment resulting in injury (hearing-related and slight lung), and behavioral harassment (from TTS and sub-TTS). For mine detonations, the sound effects were modeled using the different net explosive weights at 16 environmental provinces during the winter and summer seasons. There are three ranges of NEW: 1–10 lb (0.45–4.5 kg), 11–75 lb (5–34 kg), and 76–600 lbs (34.5–272 kg). The three ranges of NEW for mine detonations mirror the ranges identified in the analysis of alternatives. Due to differences in delivery and orientation, line charges are not included within these three ranges of NEW, and their

potential effects were analyzed and presented separately. A discussion of the equations used and environmental provinces and equations used are provided in Appendix A, ''Supplemental Information for Underwater Noise Analysis,'' and Appendix B, ''Geographic Description of Acoustic Environmental Provinces'' of the LOA application.

Based on the model calculation, the various zones of influence from these three ranges of NEW are listed below in Table 8.

TABLE 8—ZONES OF INFLUENCE (IN METERS) FROM DIFFERENT RANGES OF NEW UNDER EXPLOSIVE ACOUSTIC CRITERIA

Size of NEW	182 dB re 1 microPa^2-sec	23 psi	1.17 in-lb/in^2 (about 205 dB re 1 microPa^2-sec)	Indexed to 13 psi-msec (assumes 100 percent small animal at 26.9 lbs)	Indexed to 30.5 psi-msec (assumes 100 percent small animal at 26.9 lbs)
10 lb	345	379	151	70	15
75 lb	997	535	357	190	66
600 lb	2,863	1,186	927	502	203

Analysis for mine-clearing line charges followed methods similar to detonations. The major differences in the line charge analysis included (1) focus on propagation through the sediment layer(s) rather than treating the bottom as a boundary with a particular reflection loss and (2) modeling according to its unique physical characteristics. The specific information on calculations for mine-clearing line charges is presented in Appendix A, ''Supplemental Information for Underwater Noise Analysis'' of the LOA application.

Acoustical modeling is a conservative measure of the actual exposures and, therefore, the numbers presented in the following paragraphs are not necessarily indicative of actual exposures under the MMPA. In an effort to reduce the potential exposures associated with live detonations, the mitigation and protective measures will be implemented.

Marine Mammal Ordnance Exposures in Territorial Waters

Detonations in territorial waters may expose up to three bottlenose dolphins and two Atlantic spotted dolphins to sound likely to result in harassment (Table 9). Marine mammals are likely to incur only Level B harassment from ordnance exercises conducted in territorial waters.

TABLE 9—ESTIMATES OF MARINE MAMMAL EXPOSURES FROM DETONATIONS (0–34 KG OR 0–75 LB) IN TERRITORIAL WATERS PER YEAR

Marine mammal species	Mortality (severe lung injury)	Level A (slight lung injury)	Level B (non-injury)
Bottlenose dolphin	0	0	3
Atlantic spotted dolphin	0	0	2

Line charge events will only be conducted in the surf zone along a portion of Santa Rosa Island in water depth between 1–3 meters (which is not a normal habitat for marine mammals). The charge is considered one explosive source that has multiple increments that detonate at one time. Line charge events produce a series of small detonations (5 lb. increments) that occur sequentially, rather than a simultaneous large explosion. The instantaneous SPL produced by these sequential detonations is significantly less than a single, large explosion and is unlikely to produce harmful levels of energy. The Navy's model revealed that given the small, sequential explosions, the ZOIs would be small as compared to a single large explosion. Combined with shallow water in which the exercises are proposed to be conducted and the fewer marine mammals expected in the surf zone, NMFS and the Navy do not expect marine mammals to experience harassment from sound generated by line charge exercises in territorial waters (Table 10).

TABLE 10—ESTIMATES OF MARINE MAMMAL EXPOSURES FROM LINE CHARGES (794 KG OR 1,750 LB) IN TERRITORIAL WATERS PER YEAR

Marine mammal species	Mortality (severe lung injury)	Level A (slight lung injury)	Level B (non-injury)
Bottlenose dolphin	0	0	0
Atlantic spotted dolphin	0	0	0

Marine Mammal Ordnance Exposures in Non-Territorial Waters

Detonations in non-territorial waters may expose up to eight marine mammal species to sound likely to result in Level B harassment (Table 11). They include the sperm whale, melon-headed whale, Risso's dolphin, rough-toothed dolphin, bottlenose dolphin, Atlantic spotted dolphin, pantropical spotted dolphin, striped dolphin, and spinner dolphin. In addition, two bottlenose dolphin, two Atlantic spotted dolphin, one pantropical spotted dolphin, and one spinner dolphin may be exposed to levels of sound likely to result in Level A harassment (slight lung injury). Although Navy's modeling showed that one bottlenose dolphin and one Atlantic spotted dolphin may be exposed to levels of sound likely to result in mortality (severe lung injury), NMFS considers that such events are unlikely. Based on the ZOIs calculated for different categories of NEW explosives, the animals have to be within a range of 203 m from the explosion in order to experience severe lung injury or mortality. NMFS expects that the mitigation and monitoring measures associated with ordnance exercises will provide sufficient protection to marine mammals, and will prevent mortality because operations will not be conducted (or will be suspended, as appropriate) if animals are detected within or approaching the ZOI.

TABLE 11—ESTIMATES OF MARINE MAMMAL EXPOSURES FROM DETONATIONS (34–272 KG [76–600 LB]) IN NON-TERRITORIAL WATERS PER YEAR*

Marine mammal species	Mortality (severe lung injury)	Level A (slight lung injury)	Level B (non-injury)
Bryde's whale	0	0	0
Sperm whale	0	0	1
Dwarf/Pygmy sperm whale	0	0	0
All beaked whales	0	0	0
Killer whale	0	0	0
False killer whale	0	0	0
Pygmy killer whale	0	0	0
Melon-headed whale	0	0	1
Short-finned pilot whale	0	0	0
Risso's dolphin	0	0	1
Rough-toothed dolphin	0	0	0
Bottlenose dolphin	0	2	38
Atlantic spotted dolphin	0	2	18
Pantropical spotted dolphin	0	1	6
Striped dolphin	0	0	2
Spinner dolphin	0	1	10
Clymene dolphin	0	0	0

* The Navy's estimates were revised by NMFS after further analysis and consideration of the proposed mitigation and monitoring measures.

Marine Mammal Exposures Due to Projectile Firing

Live projectile firing operations will not occur in territorial waters.

Five-inch round testing is to have 60, 5-inch rounds tested annually. Projectile firing in non-territorial waters may expose up to three species of marine mammals to sound likely to result in Level B harassment (Table 12). They include the bottlenose dolphin and Atlantic spotted dolphin, pantropical and striped dolphin. Marine mammals are likely to incur only Level B harassment from the projectile firing exercises occurring in non-territorial waters.

In addition, tests involving projectile firing are conducted at close range. The probability is low that a marine mammal will enter the firing area directly adjacent to the target undetected simultaneous to projectile firing. The noise associated with the firing and the support aircraft and/or surface vessels would likely cause animals to avoid the area. Furthermore, the mitigation and clearance procedures described below will be implemented, thereby reducing the likelihood that a marine mammal will enter the firing area at the same time a projectile firing exercise is initiated. If present, large groups of cetaceans such as schools of dolphin species and large species of whales such as sperm whales and Bryde's whales will be sighted at the surface during standard clearance procedures and operations would be suspended until such time as these animals leave the target area.

TABLE 12—ESTIMATES OF MARINE MAMMAL EXPOSURES FROM 5-INCH ROUND DETONATIONS IN NON-TERRITORIAL WATERS PER YEAR

Marine mammal species	Mortality (severe lung injury)	Level A (slight lung injury)	Level B (non-injury)
Bryde's whale	0	0	0
Sperm whale	0	0	0
Dwarf/Pygmy sperm whale	0	0	0
All beaked whales	0	0	0
Killer whale	0	0	0
False killer whale	0	0	0
Pygmy killer whale	0	0	0
Melon-headed whale	0	0	0
Short-finned pilot whale	0	0	0

TABLE 12—ESTIMATES OF MARINE MAMMAL EXPOSURES FROM 5-INCH ROUND DETONATIONS IN NON-TERRITORIAL WATERS PER YEAR—Continued

Marine mammal species	Mortality (severe lung injury)	Level A (slight lung injury)	Level B (non-injury)
Risso's dolphin	0	0	0
Rough-toothed dolphin	0	0	0
Bottlenose dolphin	0	0	2
Atlantic spotted dolphin	0	0	1
Pantropical spotted dolphin	0	0	1
Striped dolphin	0	0	0
Spinner dolphin	0	0	0
Clymene dolphin	0	0	0

Table 13 provides a summary of estimated marine mammals under NMFS jurisdiction that could be affected by the proposed NSWC PCD RDT&E activities.

TABLE 13—ESTIMATES OF TOTAL MARINE MAMMAL EXPOSURES FROM THE NSWC PCD MISSION ACTIVITIES PER YEAR

Marine mammal species	Mortality (severe lung injury)	Level A (slight lung injury)	Level B (non-injury)
Bryde's whale	.....	.....	.....
Sperm whale	.....	.....	2
Dwarf/Pygmy sperm whale	.....	.....	.....
All beaked whales	.....	.....	.....
Killer whale	.....	.....	.....
False killer whale	.....	.....	.....
Pygmy killer whale	.....	.....	.....
Melon-headed whale	.....	.....	2
Short-finned pilot whale	.....	.....	1
Risso's dolphin	.....	.....	2
Rough-toothed dolphin	.....	.....	.....
Bottlenose dolphin	0	2	614
Atlantic spotted dolphin	0	2	471
Pantropical spotted dolphin	.....	1	23
Striped dolphin	.....	.....	5
Spinner dolphin	.....	1	23
Clymene dolphin	.....	.....	5

Effects on Marine Mammal Habitat

There are no areas within the NSWC PCD that are specifically considered as important physical habitat for marine mammals.

The prey of marine mammals are considered part of their habitat. The Navy's DEIS for the NSWC PCD contains a detailed discussion of the potential effects to fish from HFAS/MFAS and explosive detonations. Below is a summary of conclusions regarding those effects.

Effects on Fish From HFAS/MFAS

The extent of data, and particularly scientifically peer-reviewed data, on the effects of high intensity sounds on fish is limited. In considering the available literature, the vast majority of fish species studied to date are hearing generalists and cannot hear sounds above 500 to 1,500 Hz (depending upon the species), and, therefore, behavioral effects on these species from higher frequency sounds are not likely. Moreover, even those fish species that may hear above 1.5 kHz, such as a few sciaenids and the clupeids (and relatives), have relatively poor hearing above 1.5 kHz as compared to their hearing sensitivity at lower frequencies. Therefore, even among the species that have hearing ranges that overlap with some mid- and high frequency sounds, it is likely that the fish will only actually hear the sounds if the fish and source are very close to one another. Finally, since the vast majority of sounds that are of biological relevance to fish are below 1 kHz (e.g., Zelick *et al.,* 1999; Ladich and Popper, 2004), even if a fish detects a mid- or high frequency sound, these sounds will not mask detection of lower frequency biologically relevant sounds. Based on the above information, there will likely be few, if any, behavioral impacts on fish.

Alternatively, it is possible that very intense mid- and high frequency signals, and particularly explosives, could have a physical impact on fish, resulting in damage to the swim bladder and other organ systems. However, even these kinds of effects have only been shown in a few cases in response to explosives, and only when the fish has been very close to the source. Such effects have never been indicated in response to any Navy sonar. Moreover, at greater distances (the distance clearly would depend on the intensity of the signal from the source) there appears to be little or no impact on fish, and particularly no impact on fish that do not have a swim bladder or other air bubble that would be affected by rapid pressure changes.

Effects on Fish From Explosive Detonations

There are currently no well-established thresholds for estimating

effects to fish from explosives other than mortality models. Fish that are located in the water column, in proximity to the source of detonation could be injured, killed, or disturbed by the impulsive sound and possibly temporarily leave the area. Continental Shelf Inc. (2004) summarized a few studies conducted to determine effects associated with removal of offshore structures (e.g., oil rigs) in the Gulf of Mexico. Their findings revealed that at very close range, underwater explosions are lethal to most fish species regardless of size, shape, or internal anatomy. For most situations, cause of death in fishes has been massive organ and tissue damage and internal bleeding. At longer range, species with gas-filled swimbladders (e.g., snapper, cod, and striped bass) are more susceptible than those without swimbladders (e.g., flounders, eels). Studies also suggest that larger fishes are generally less susceptible to death or injury than small fishes. Moreover, elongated forms that are round in cross section are less at risk than deep-bodied forms; and orientation of fish relative to the shock wave may affect the extent of injury. Open water pelagic fish (e.g., mackerel) also seem to be less affected than reef fishes. The results of most studies are dependent upon specific biological, environmental, explosive, and data recording factors.

The huge variations in the fish population, including numbers, species, sizes, and orientation and range from the detonation point, make it very difficult to accurately predict mortalities at any specific site of detonation. Fish have the ability to quickly and easily leave an area temporarily when vessels and/or helicopters approach; it is reasonable to assume that fish will leave an area prior to ordnance detonation and will return when operations are completed. Thus, it is anticipated that the quantity of fish affected will be small and will not imperil any fish populations. In addition, most fish species experience large number of natural mortalities, especially during early life-stages, and any small level of mortality caused by the NSWC PCD's limited RDT&E activities involving the explosive detonations will likely be insignificant to the population as a whole.

Proposed Mitigation Measures

In order to issue an incidental take authorization (ITA) under Section 101(a)(5)(A) of the MMPA, NMFS must set forth the ''permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.'' The National Defense Authorization Act (NDAA) of 2004 amended the MMPA as it relates to military-readiness activities and the incidental take authorization process such that ''least practicable adverse impact'' shall include consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the ''military readiness activity.'' The mission activities described in the NSWC PCD LOA application and LOA Addendum are considered military readiness activities.

In addition, any mitigation measure prescribed by NMFS should be known to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

(a) Avoidance or minimization of injury or death of marine mammals wherever possible (goals b, c, and d may contribute to this goal).

(b) A reduction in the numbers of marine mammals (total number or number at a biologically important time or location) exposed to received levels of underwater detonations or other activities expected to result in the take of marine mammals (this goal may contribute to a, above, or to reducing harassment takes only).

(c) A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to received levels of underwater detonations or other activities expected to result in the take of marine mammals (this goal may contribute to a, above, or to reducing harassment takes only).

(d) A reduction in the intensity of exposures (either total number or number at biologically important time or location) to received levels of underwater detonations or other activities expected to result in the take of marine mammals (this goal may contribute to a, above, or to reducing the severity of harassment takes only).

(e) A reduction in adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.

(f) For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation (shut-down zone, etc.).

NMFS worked with the Navy and identified potential practicable and effective mitigation measures, which included a careful balancing of the likely benefit of any particular measure to the marine mammals with the likely effect of that measure on personnel safety, practicality of implementation, and impact on the ''military-readiness activity''. These mitigation measures are listed below.

Proposed Mitigation Measures for HFAS/MFAS Operations

Current protective measures employed by the Navy include applicable training of personnel and implementation of activity specific procedures resulting in minimization and/or avoidance of interactions with protected resources.

The Navy includes marine species awareness as part of its training for its Navy personnel on vessels. Marine Species Awareness Training (MSAT) was updated in 2005, and the additional training materials are now included as required training for Navy marine observers. This training addresses the marine observer's (equivalent to lookout or watchstander in other Navy actions) role in environmental protection, laws governing the protection of marine species, Navy stewardship commitments, and general observation information to aid in avoiding interactions with marine species. Marine species awareness and training is reemphasized by the following means:

- Marine observers—Personnel are required to utilize marine species awareness training techniques as standard operating procedure, have available a marine species visual identification aid when marine mammals are sighted, and receive updates to the current marine species awareness training as appropriate.

Implementation of these protective measures is required of all units. The activities undertaken on a Navy vessel or aircraft are highly controlled. The chain of command supervises these activities. Failure to follow orders can result in disciplinary action.

Personnel Training

1. All marine observers onboard platforms involved in the mission activities will review the NMFS-approved MSAT material prior to use of mid- and high-frequency active sonar.

2. Navy marine observers will undertake extensive training in order to qualify as a watchstander in accordance with the Lookout Training Handbook (NAVEDTRA, 12968–D).

3. Marine observer training will include on-the-job instruction under the supervision of a qualified, experienced watchstander. Following successful completion of this supervised training period, Marine observers will complete the Personal Qualification Standard program, certifying that they have demonstrated the necessary skills (such as detection and reporting of partially submerged objects). This does not forbid personnel being trained as marine observers from being counted as those listed in previous measures so long as supervisors monitor their progress and performance.

4. Marine observers will be trained in the most effective means to ensure quick and effective communication within the command structure in order to facilitate implementation of mitigation measures if marine species are spotted.

Marine Observer Responsibilities

1. On the bridge of surface vessels, there will always be at least one to three persons (depending on the length of the vessel) on watch whose duties include observing the water surface around the vessel.

Manned motor-driven vessels with length overall less than 65 ft (20 m) would require at least one marine species awareness trained observer; vessels with length overall between 65–200 ft (20–61 m) would require at least two marine species awareness trained observers; and vessels with length overall over 200 ft (61 m) would require at least 3 marine species awareness trained observers.

2. Each marine observer will have at their disposal at least one set of binoculars available to aid in the detection of marine mammals.

3. On surface vessels equipped with the AN/SQQ–53C/56, pedestal mounted ''Big Eye'' (20 x 110) binoculars will be present and in good working order to assist in the detection of marine mammals in the vicinity of the vessel.

4. Marine observers will employ visual search procedures employing a scanning methodology in accordance with the Lookout Training Handbook (NAVEDTRA 12968–D).

5. Marine observers would scan the water from the vessel to the horizon and be responsible for all contacts in their sector. In searching the assigned sector, the marine observer would always start at the forward part of the sector and search aft (toward the back). To search and scan, the marine observer would hold the binoculars steady so the horizon is in the top third of the field of vision and direct the eyes just below the horizon. The marine observer would scan for approximately five seconds in as many small steps as possible across the field seen through the binoculars. They would search the entire sector in approximately five-degree steps, pausing between steps for approximately five seconds to scan the field of view. At the end of the sector search, the glasses would be lowered to allow the eyes to rest for a few seconds, and then the marine observer would search back across the sector with the naked eye.

6. After sunset and prior to sunrise, marine observers will employ Night Lookout Techniques in accordance with the Lookout Training Handbook.

7. At night, marine observers would not sweep the horizon with their eyes because eyes do not see well when they are moving. Marine observers would scan the horizon in a series of movements that would allow their eyes to come to periodic rests as they scan the sector. When visually searching at night, they would look a little to one side and out of the corners of their eyes, paying attention to the things on the outer edges of their field of vision.

8. Marine observers will be responsible for reporting all objects or anomalies sighted in the water (regardless of the distance from the vessel) to the Test Director or the Test Director's designee, since any object or disturbance (e.g., trash, periscope, surface disturbance, discoloration) in the water may be indicative of a threat to the vessel and its crew or indicative of a marine species that may need to be avoided as warranted.

Operating Procedures

1. A Record of Environmental Consideration will be included in the Test Plan prior to the test event to further disseminate the personnel testing requirement and general marine mammal mitigation measures.

2. Test Directors will make use of marine species detection cues and information to limit interaction with marine species to the maximum extent possible consistent with safety of the vessel.

3. All personnel engaged in passive acoustic sonar operation (including aircraft or surface vessels) will monitor for marine mammal vocalizations and report the detection of any marine mammal to the appropriate watch station for dissemination and appropriate action.

4. During mid- and high frequency active sonar activities, personnel will utilize all available sensor and optical systems (such as Night Vision Goggles) to aid in the detection of marine mammals.

5. Navy aircraft participating in exercises at sea will conduct and maintain, when operationally feasible and safe, surveillance for marine species of concern as long as it does not violate safety constraints or interfere with the accomplishment of primary operational duties.

6. Aircraft with deployed sonobuoys will use only the passive capability of sonobuoys when marine mammals are detected within 200 yards of the sonobuoy.

7. Marine mammal detections will be immediately reported to assigned Test Director or the Test Director's designee for further dissemination to vessels in the vicinity of the marine species as appropriate where it is reasonable to conclude that the course of the vessel will likely result in a closing of the distance to the detected marine mammal.

8. Safety Zones—When marine mammals are detected by any means (aircraft, marine observer, or acoustically) the Navy will ensure that HFAS/MFAS transmission levels are limited to at least 6 dB below normal operating levels if any detected marine mammals are within 1,000 yards (914 m) of the sonar dome (the bow).

(1) Vessels will continue to limit maximum HFAS/MFAS transmission levels by this 6-dB factor until the marine mammal has been seen to leave the area, has not been detected for 30 minutes, or the vessel has transited more than 2,000 yards (1,828 m) beyond the location of the last detection.

(2) The Navy will ensure that HFAS/MFAS transmissions will be limited to at least 10 dB below the equipment's normal operating level if any detected animals are within 500 yards (457 m) of the sonar dome. Vessels will continue to limit maximum ping levels by this 10-dB factor until the marine mammal has been seen to leave the area, has not been detected for 30 minutes, or the vessel has transited more than 2,000 yards (1,828 m) beyond the location of the last detection.

(3) The Navy will ensure that HFAS/MFAS transmissions are ceased if any detected marine mammals are within 200 yards (183 m) of the sonar dome. HFAS/MFAS will not resume until the marine mammal has been seen to leave the area, has not been detected for 30 minutes, or the vessel has transited more than 2,000 yards (1,828 m) beyond the location of the last detection.

(4) Special conditions applicable for dolphins only: If, after conducting an initial maneuver to avoid close quarters with dolphins, the Test Director or the Test Director's designee concludes that dolphins are deliberately closing to ride

the vessel's bow wave, no further mitigation actions are necessary while the dolphins or porpoises continue to exhibit bow wave riding behavior.

(5) If the need for power-down should arise as detailed in ''Safety Zones'' above, Navy shall follow the requirements as though they were operating at 235 dB—the normal operating level (i.e., the first power-down will be to 229 dB, regardless of at what level above 235 sonar was being operated).

9. Prior to start up or restart of active sonar, operators will check that the Safety Zone radius around the sound source is clear of marine mammals.

10. Sonar levels (generally)—Navy will operate sonar at the lowest practicable level, not to exceed 235 dB, except as required to meet testing objectives.

11. Helicopters shall observe/survey the vicinity of the mission activities for 10 minutes before the first deployment of active (dipping) sonar in the water.

12. Helicopters shall not dip their sonar within 200 yards (183 m) of a marine mammal and shall cease pinging if a marine mammal closes within 200 yards (183 m) after pinging has begun.

Proposed Mitigation Measures for Ordnance and Projectile Firing

To ensure protection of marine mammals during ordnance and projectile firing related underwater detonation mission activities, the operating area must be determined to be clear of marine mammals prior to detonation. Implementation of the following mitigation measures would ensure that marine mammals would not be exposed to TTS, PTS or injury from ordnance and projectile firing exercises.

- No detonations over 34 kg (75 lb) will be conducted in territorial waters. This does not apply to the line charge detonation, which is a 107 m (350 ft) detonation cord with explosives lined from one end to the other end in 2 kg (5 lb) increments and total 794 kg (1,750 lb) of NEW. This charge is considered one explosive source that has multiple increments that detonate at one time.
- The number of live mine detonations will be minimized and the smallest amount of explosive material possible to achieve test objectives will be used.
- Activities will be coordinated through the Environmental Help Desk to allow potential concentrations of detonations in a particular area over a short time to be identified and avoided.
- Visual surveys and aerial surveys will be conducted for all test operations that involve detonation events with for 30 minutes before and during the test event.
- Line charge tests would not be conducted during the nighttime.
- Additional mitigation will be determined through the NSWC PCD's Environmental Review Process review based on test activities including the size of detonations, test platforms, and environmental effects documented in the Navy's EIS/OEIS. Various zones of influence (ZOIs) from different ranges of NEW are shown in Table 8. As a mitigation measure, the largest ZOI associated with the upper limit of each NEW would be adopted as a clearance zone for such range of NEW. Therefore, for the following ranges of NEW, the clearance zones are: 2,863 m for NEW between 76–600 lb, 997 m for NEW between 11–75 lb, and 345 m for NEW under 11 lb.

Proposed Mitigation Measures for Surface Operations and Other Activities

For surface operations, vessel-based visual surveys would be conducted for all test operations to reduce the potential for vessel collisions with a protected species.

(a) While underway, vessels will have at least one to three marine species awareness trained observers (based on the length of the vessel) with binoculars. Manned motor-driven vessels with length overall less than 65 ft (20 m) would require at least one marine species awareness trained observer; vessels with length overall between 65–200 ft (20–61 m) would require at least two marine species awareness trained observers; and vessels with length overall over 200 ft (61 m) would require at least three marine species awareness trained observers. As part of their regular duties, marine observers will watch for and report to the Test Director or Test Director's designee the presence of marine mammals.

(b) Marine observers will employ visual search procedures employing a scanning method in accordance with the Lookout Training Handbook (NAVEDTRA 12968–D).

(c) While in transit, naval vessels shall be alert at all times, use extreme caution, and proceed at a ''safe speed'' (the minimum speed at which mission goals or safety will not be compromised) so that the vessel can take proper and effective action to avoid a collision with any marine animal and can be stopped within a distance appropriate to the prevailing circumstances and conditions.

(d) When marine mammals have been sighted in the area, Navy vessels will increase vigilance and implement measures to avoid collisions with marine mammals and avoid activities that might result in close interaction of naval assets and marine mammals. Actions shall include changing speed and/or direction and are dictated by environmental and other conditions (e.g., safety, weather).

(e) Naval vessels will maneuver to keep at least 500 yd (460 m) away from any observed whale and avoid approaching whales head-on. This requirement does not apply if a vessel's safety is threatened, such as when change of course will create an imminent and serious threat to a person, vessel, or aircraft, and to the extent vessels are restricted in their ability to maneuver. Vessels will take reasonable steps to alert other vessels in the vicinity of the whale.

(f) Where feasible and consistent with mission and safety, vessels will avoid closing to within 200 yards (183 m) of marine mammals other than whales (whales addressed above).

(g) Floating weeds, algal mats, Sargassum rafts, clusters of seabirds, and jellyfish are good indicators of marine mammal presence. Therefore, increased vigilance in watching for marine mammals will be taken where these conditions exist.

(h) All vessels will maintain logs and records documenting RDT&E activities should they be required for event reconstruction purposes. Logs and records will be kept for a period of 30 days following completion of a RDT&E mission activity.

Research and Conservation Measures for Marine Mammals

The Navy provides a significant amount of funding and support for marine research. The Navy provided $26 million in Fiscal Year 2008 and plans for $22 million in Fiscal Year 2009 to universities, research institutions, Federal laboratories, private companies, and independent researchers around the world to study marine mammals. Over the past five years the Navy has funded over $100 million in marine mammal research. The U.S. Navy sponsors seventy percent of all U.S. research concerning the effects of human-generated sound on marine mammals and 50 percent of such research conducted worldwide. Major topics of Navy-supported research include the following:

- Better understanding of marine species distribution and important habitat areas,
- Developing methods to detect and monitor marine species before and during training,

• Understanding the effects of sound on marine mammals, sea turtles, fish, and birds, and

• Developing tools to model and estimate potential effects of sound.

The Navy's Office of Naval Research currently coordinates six programs that examine the marine environment and are devoted solely to studying the effects of noise and/or the implementation of technology tools that will assist the Navy in studying and tracking marine mammals. The six programs are as follows:

• Environmental Consequences of Underwater Sound,

• Non-Auditory Biological Effects of Sound on Marine Mammals,

• Effects of Sound on the Marine Environment,

• Sensors and Models for Marine Environmental Monitoring,

• Effects of Sound on Hearing of Marine Animals, and

• Passive Acoustic Detection, Classification, and Tracking of Marine Mammals.

Furthermore, research cruises by NMFS and by academic institutions have received funding from the Navy.

The Navy has sponsored several workshops to evaluate the current state of knowledge and potential for future acoustic monitoring of marine mammals. The workshops brought together acoustic experts and marine biologists from the Navy and other research organizations to present data and information on current acoustic monitoring research efforts and to evaluate the potential for incorporating similar technology and methods on instrumented ranges. However, acoustic detection, identification, localization, and tracking of individual animals still requires a significant amount of research effort to be considered a reliable method for marine mammal monitoring. The Navy supports research efforts on acoustic monitoring and will continue to investigate the feasibility of passive acoustics as a potential mitigation and monitoring tool.

Overall, the Navy will continue to fund ongoing marine mammal research, and is planning to coordinate long-term monitoring/studies of marine mammals on various established ranges and operating areas. The Navy will continue to research and contribute to university/external research to improve the state of the science regarding marine species biology and acoustic effects. These efforts include mitigation and monitoring programs; data sharing with NMFS and via the literature for research and development efforts.

Long-Term Prospective Study

NMFS, with input and assistance from the Navy and several other agencies and entities, will perform a longitudinal observational study of marine mammal strandings to systematically observe for and record the types of pathologies and diseases and investigate the relationship with potential causal factors (e.g., sonar, seismic, weather). The study will not be a true ''cohort'' study, because we will be unable to quantify or estimate specific sonar or other sound exposures for individual animals that strand. However, a cross-sectional or correlational analysis, a method of descriptive rather than analytical epidemiology, can be conducted to compare population characteristics, e.g., frequency of strandings and types of specific pathologies between general periods of various anthropogenic activities and non-activities within a prescribed geographic space. In the long term study, we will more fully and consistently collect and analyze data on the demographics of strandings in specific locations and consider anthropogenic activities and physical, chemical, and biological environmental parameters. This approach in conjunction with true cohort studies (tagging animals, measuring received sounds, and evaluating behavior or injuries) in the presence of activities and non-activities will provide critical information needed to further define the impacts of MTEs and other anthropogenic and non-anthropogenic stressors. In coordination with the Navy and other federal and non-federal partners, the comparative study will be designed and conducted for specific sites during intervals of the presence of anthropogenic activities such as sonar transmission or other sound exposures and absence to evaluate demographics of morbidity and mortality, lesions found, and cause of death or stranding. Additional data that will be collected and analyzed in an effort to control potential confounding factors include variables such as average sea temperature (or just season), meteorological or other environmental variables (e.g., seismic activity), fishing activities, etc. All efforts will be made to include appropriate controls (i.e., no sonar or no seismic); environmental variables may complicate the interpretation of ''control'' measurements. The Navy and NMFS along with other partners are evaluating mechanisms for funding this study.

Proposed Monitoring Measures

In order to issue an ITA for an activity, section 101(a)(5)(A) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for LOAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present.

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

(a) An increase in the probability of detecting marine mammals, both within the safety zone (thus allowing for more effective implementation of the mitigation) and in general to generate more data to contribute to the analyses mentioned below.

(b) An increase in our understanding of how many marine mammals are likely to be exposed to levels of HFAS/MFAS (or explosives or other stimuli) that we associate with specific adverse effects, such as behavioral harassment, TTS, or PTS.

(c) An increase in our understanding of how marine mammals respond to HFAS/MFAS (at specific received levels), explosives, or other stimuli expected to result in take and how anticipated adverse effects on individuals (in different ways and to varying degrees) may impact the population, species, or stock (specifically through effects on annual rates of recruitment or survival) through any of the following methods:

• Behavioral observations in the presence of HFAS/MFAS compared to observations in the absence of sonar (need to be able to accurately predict received level and report bathymetric conditions, distance from source, and other pertinent information).

• Physiological measurements in the presence of HFAS/MFAS compared to observations in the absence of sonar (need to be able to accurately predict received level and report bathymetric conditions, distance from source, and other pertinent information), and/or

• Pre-planned and thorough investigation of stranding events that occur coincident to naval activities.

• Distribution and/or abundance comparisons in times or areas with concentrated HFAS/MFAS versus times or areas without HFAS/MFAS.

(d) An increased knowledge of the affected species.

(e) An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

With these goals in mind, the following monitoring procedures for the proposed Navy's NSWC PCD mission activities have been worked out between NMFS and the Navy. NMFS and the Navy continue to improve the plan and may modify the monitoring plan based on input received during the public comment period.

Several monitoring techniques were prescribed for other Navy activities related to sonar exercises and underwater detonations (see monitoring plan for Navy's Hawaii Range Complex; Navy, 2008). Every known monitoring technique has advantages and disadvantages that vary temporally and spatially. Therefore, a combination of techniques are proposed to be used so that the detection and observation of marine animals is maximized. Monitoring methods proposed during mission activity events in the NSWC PCD Study Area include a combination of the following research elements that would be used to collection data for comprehensive assessment:

- Visual Surveys—Vessel, Aerial and Shore-based
- Passive Acoustic Monitoring (PAM)
- Marine Mammal Observers (MMOs) on Navy vessels

Visual Surveys—Vessel, Aerial and Shore-Based

Visual surveys of marine animals can provide detailed information about the behavior, distribution, and abundance. Baseline measurements and/or data for comparison can be obtained before, during and after mission activities. Changes in behavior and geographical distribution may be used to infer if and how animals are impacted by sound. In accordance with all safety considerations, observations will be maximized by working from all available platforms: Vessels, aircraft, land and/or in combination. Vessel and aerial surveys will be conducted on commercial vessels and aircraft. Visual surveys will be conducted during Navy RDT&E events that have been identified as providing the highest likelihood of success.

Vessel surveys are often preferred by researchers because of their slow speed, offshore survey ability, duration and ability to more closely approach animals under observation. They also result in higher rate of species identification, the opportunity to combine line transect and mark-recapture methods of estimating abundance, and collection of oceanographic and other relevant data. Vessels can be less expensive per unit of time, but because of the length of time to cover a given survey area, may actually be more expensive in the long run compared to aerial surveys (Dawson *et al.,* 2008). Changes in behavior and geographical distribution may be used to infer if and how animals are impacted by sound. However, it should be noted that animal reaction (reactive movement) to the survey vessel itself is possible (Dawson *et al.,* 2008). Vessel surveys typically do not allow for observation of animals below the ocean's surface (e.g., in the water column) as compared to aerial surveys (DoN, 2008a; Slooten *et al.,* 2004).

For underwater detonations, the size of the survey area has been determined based upon the type of explosive event planned and the amount of NEW used. As a conservative measure, the largest ZOI associated with the upper limit of each NEW would be surveyed during the training event. For example, the Navy would be required to observe the following ZOIs and ensure they are clear of marine mammals prior to conducting explosive ordnance exercises: 2,863 m for NEW between 76–600 lb; 997 m for NEW between 11–75 lb; and 345 m for NEW under 11 lb.

If animals are observed prior to or during an explosion, a focal follow of that individual or group will be conducted to record behavioral responses. Navy mitigation measures will prevent the mission activity from occurring should animals be seen within these ZOIs of the events listed above.

The visual survey team will collect the same data that are collected by Navy marine observers, including but not limited to: (1) Location of sighting; (2) species; (3) number of individuals; (4) number of calves present, if any; (5) duration of sighting; (6) behavior of marine animals sighted; (7) direction of travel; (8) environmental information associated with sighting event including Beaufort sea state, wave height, swell direction, wind direction, wind speed, glare, percentage of glare, percentage of cloud cover; and (9) when in relation to navy exercises did the sighting occur (before, during or after detonations/exercise). Animal sightings and relative distance from a particular detonation site will be used post-survey to estimate the number of marine mammals exposed to different received levels (energy and pressure of discharge based on distance to the source, bathymetry, oceanographic conditions and the type and size of detonation) and their corresponding behavior. For vessel based surveys a passive acoustic system (hydrophone or towed array) or sonobuoys may be used to help determine if marine mammals are in the area before and after a detonation event.

Although photo-identification studies are not typically a component of Navy exercise monitoring surveys, the Navy supports using the contracted platforms to obtain opportunistic data collection. Therefore, any digital photographs that are taken of marine mammals during visual surveys will be provided to local researchers for their regional research.

1. Aerial Surveys

During sonar operations, an aerial survey team will fly transects relative to a Navy surface vessel that is transmitting HFA/MFA sonar. The aerial survey team will collect both visual sightings and behavioral observations of marine animals. These transect data will provide an opportunity to collect data of marine mammals at different received levels and their behavioral responses and movement relative to the Navy vessel's position. Surveys will include time with and without active sonar in order to compare density, geographical distribution and behavioral observations. After declassification, related sonar transmissions will be used to calculate exposure levels.

Behavioral observation methods will involve three professionally trained marine mammal observers and a pilot. Two observers will observe behaviors, one with hand-held binoculars and one with the naked eye per Wursig *et al.* (1985) and Richardson *et al.* (1986). If there is more than one whale, each observer will record respirations of different animals, ideally from the same animal. In the case of large groups, e.g., of delphinids, group behavior, speed, orientation, etc., will be recorded as described in Smultea and Würsig (1995). An observer will use a video camera to record behaviors in real time. Two external microphones will be input and attached to the video camera to record vocal behavioral descriptions on two different channels of the video camera. The videotape will be time-stamped and observers will also call out times. The third observer will record notes, environmental data, and operate a laptop connected to a GPS and the plane's altimeter.

Detailed behavioral focal observations of cetaceans will be recorded, including the following variables where possible: Species, group size and composition (number of calves, etc.), latitude/longitude, surface and dive durations and times, number and spacing/times of respirations, conspicuous behaviors (e.g., breach, tail slap, etc.), behavioral states, orientation and changes in orientation, estimated group travel

speed, inter-individual distances, defecations, social interactions, aircraft speed, aircraft altitude, distance to focal group (using the plane's radar) and any unusual behaviors or apparent reactions following previously established protocol (Richardson *et al.,* 1985; 1986; 1990; Wursig *et al.,* 1985; 1989; Smultea and Würsig, 1995; Patenaude *et al.,* 2002).

In addition, to measure whether marine mammals are displaced geographically as a result of sonar operations, systematic line-transect aerial surveys will be conducted on the two days before and a variation of one to five days after a NSWC PCD RDT&E testing activity to collect relative density data in the testing area for marine mammals in the area. Attempts will be made to survey during a test event, but safety of navigation for the survey vessel may preclude conduction this kind of survey during certain NSWC PCD RDT&E activities. Rationale supporting variation in the number of days after a test event allows for detection of animals that gradually return to an area, if their distribution changes as a response. One survey day following the mission activity event will be devoted to flying coastlines nearest the mission event to look for potential marine mammal strandings. If a stranding is observed, an assessment of the animal's condition (alive, injured, dead, and/or decayed) will be immediately reported to the Navy for appropriate action and the information will be transmitted immediately to NMFS.

2. Vessel Surveys

The primary purpose of vessel surveys will be to document and monitor potential behavioral effects of the mission activities on marine mammals. As such, parameters to be monitored for potential effects are changes in the occurrence, distribution, numbers, surface behavior, and/or disposition (injured or dead) of marine mammal species before, during and after the mission activities. While challenging, the vessel surveys will attempt to conduct focal follows on animals with Navy vessels in view.

As with the aerial surveys, the vessel surveys will be designed to maximize detections of any target species near mission activity events for focal follows. Systematic transects will be used to locate marine mammals, however, the survey should deviate from transect protocol to collect behavioral data particularly if a Navy vessel is visible on the horizon or closer. At this point, they will approach within three nautical miles of the vessel(s), if weather and conditions allow, and will work in 'focal follow mode' (e.g. collect behavioral data using the big eyes, and observe the behavior of any animals that are seen). The team will go off effort for photo-id and close approach 'focal animal follows' as feasible, and when marine animal encounters occur in proximity to the vessel. While in focal follow mode, observers will gather detailed behavioral data from the animals, for as long as the animal allows. Analysis of behavioral observations will be made after the RDT&E event (Altman, 1974; Martin and Bateson, 1993). While the Navy vessels are within view, attempts will be made to position the dedicated survey vessel in the best possible way to obtain focal follow data in the presence of the NSWC PCD test event. If Navy vessels are not in view, then the vessel will begin a systematic line transect survey within the area to assess marine mammal occurrence and observe behavior. The goal of this part of the survey is to observe marine mammals that may not have been exposed to HFAS/MFAS or explosions. Therefore, post-analysis will focus on how the location, speed and vector of the survey vessel and the location and direction of the sonar source (e.g., Navy surface vessel) relates to the animal. Any other vessels or aircraft observed in the area will also be documented.

3. Shore-Based Surveys

If explosive events are planned in advance to occur adjacent to nearshore areas where there are elevated coastal structures (e.g. lookout tower at Eglin Air Force Base) or topography, then shore-based monitoring, using binoculars or theodolite, may be used to augment other visual survey methods. These methods have been proven valuable in similar monitoring studies such as ATOC and others (Frankel and Clark, 1998; Clark and Altman, 2006).

Passive Acoustic Monitoring

There are both benefits and limitations to passive acoustic monitoring (Mellinger *et al.,* 2007). Passive acoustic monitoring allows detection of marine mammals that may not be seen during a visual survey. When interpreting data collected from PAM, it is understood that species specific results must be viewed with caution because not all animals within a given population are calling, or may be calling only under certain conditions (Mellinger, 2007; ONR, 2007). Because the NSWC PCD study area does not have some of the advanced features that the South Atlantic Range and Atlantic Undersea Testing and Evaluation Center have, allowing for the potential to track real-time, passive acoustic monitoring in the NSWC PCD will utilize a stationary, bottom-set hydrophone array for PAM.

The array would be deployed for each of the days the ship is at sea. NSWC PCD has a bottom set hydrophone array, which can detect marine mammals that vocalize and would be used to supplement the ship based systematic line transect surveys (particularly for species such as beaked whales that are rarely seen). The array would need to detect low frequency vocalizations (less than 1,000 Hertz) for baleen whales and relatively high frequency vocalizations (up to 30 kilohertz) for odontocetes such as sperm whales.

Marine Mammal Observers on Navy Vessels

Civilian Marine Mammal Observers (MMOs) aboard Navy vessels will be used to research the effectiveness of Navy marine observers, as well as for data collection during other monitoring surveys.

MMOs will be field-experienced observers that are Navy biologists or contracted observers. These civilian MMOs will be placed alongside existing Navy marine observers during a sub-set of NSWC PCD RDT&E activities. This can only be done on certain vessels and observers may be required to have security clearance. Use of MMOs will verify Navy marine observer sighting efficiency, offer an opportunity for more detailed species identification, provide an opportunity to bring animal protection awareness to the vessels' crew, and provide the opportunity for an experienced biologist to collect data on marine mammal behavior. Data collected by the MMOs is anticipated to assist the Navy with potential improvements to marine observer training as well as providing the marine observers with a chance to gain additional knowledge on marine mammals.

Events selected for MMO participation will be an appropriate fit in terms of security, safety, logistics, and compatibility with NSWC PCD RDT&E activities. The MMOs will not be part of the Navy's formal reporting chain of command during their data collection efforts and Navy marine observers will follow their chain of command in reporting marine mammal sightings. Exceptions will be made if an animal is observed by the MMO within the shutdown zone and was not seen by the Navy marine observer. The MMO will inform the marine observer of the sighting so that appropriate action may be taken by the chain of command. For less biased data, it is recommended that

MMOs should schedule their daily observations to duplicate the Navy marine observers' schedule.

Civilian MMOs will be aboard Navy vessels involved in the study. As described earlier, MMOs will meet and adhere to necessary qualifications, security clearance, logistics and safety concerns. MMOs will monitor for marine mammals from the same height above water as the marine observers and as all visual survey teams, they will collect the same data collected by Navy marine observers, including but not limited to: (1) Location of sighting; (2) species (if not possible, identification of whale or dolphin); (3) number of individuals; (4) number of calves present, if any; (5) duration of sighting; (6) behavior of marine animals sighted; (7) direction of travel; (8) environmental information associated with sighting event including Beaufort sea state, wave height, swell direction, wind direction, wind speed, glare, percentage of glare, percentage of cloud cover; and (9) when in relation to navy exercises did the sighting occur (before, during or after detonations/exercise).

In addition, the Navy is developing an Integrated Comprehensive Monitoring Program (ICMP) for marine species to assess the effects of NSWC PCD RDT&E activities on marine species and investigate population trends in marine species distribution and abundance in locations where NSWC PCD RDT&E activities regularly occurs.

The ICMP will provide the overarching coordination that will support compilation of data from range-specific monitoring plans (e.g., NSWC PCD plan) as well as Navy funded research and development (R&D) studies. The ICMP will coordinate the monitoring programs progress towards meeting its goals and develop a data management plan. The ICMP will be evaluated annually to provide a matrix for progress and goals for the following year, and will make recommendations on adaptive management for refinement and analysis of the monitoring methods.

The primary objectives of the ICMP are to:

- Monitor and assess the effects of Navy activities on protected species;
- Ensure that data collected at multiple locations is collected in a manner that allows comparison between and among different geographic locations;
- Assess the efficacy and practicality of the monitoring and mitigation techniques;
- Add to the overall knowledge-base of marine species and the effects of Navy activities on marine species.

The ICMP will be used both as: (1) a planning tool to focus Navy monitoring priorities (pursuant to ESA/MMPA requirements) across Navy Range Complexes and Exercises; and (2) an adaptive management tool, through the consolidation and analysis of the Navy's monitoring and watchstander data, as well as new information from other Navy programs (e.g., R&D), and other appropriate newly published information.

In combination with the adaptive management component of the proposed NSWC PCD rule and the other planned Navy rules (e.g., Atlantic Fleet Active Sonar Training, Hawaii Range Complex, and Southern California Range Complex), the ICMP could potentially provide a framework for restructuring the monitoring plans and allocating monitoring effort based on the value of particular specific monitoring proposals (in terms of the degree to which results would likely contribute to stated monitoring goals, as well as the likely technical success of the monitoring based on a review of past monitoring results) that have been developed through the ICMP framework, instead of allocating based on maintaining an equal (or commensurate to effects) distribution of monitoring effort across Range complexes. For example, if careful prioritization and planning through the ICMP (which would include a review of both past monitoring results and current scientific developments) were to show that a large, intense monitoring effort in GOM would likely provide extensive, robust and much-needed data that could be used to understand the effects of sonar throughout different geographical areas, it may be appropriate to have other Range Complexes dedicate money, resources, or staff to the specific monitoring proposal identified as ''high priority'' by the Navy and NMFS, in lieu of focusing on smaller, lower priority projects divided throughout their home Range Complexes. The ICMP will identify:

- A means by which NMFS and the Navy would jointly consider prior years' monitoring results and advancing science to determine if modifications are needed in mitigation or monitoring measures to better effect the goals laid out in the Mitigation and Monitoring sections of the NSWC PCD rule.
- Guidelines for prioritizing monitoring projects.
- If, as a result of the workshop and similar to the example described in the paragraph above, the Navy and NMFS decide it is appropriate to restructure the monitoring plans for multiple ranges such that they are no longer evenly allocated (by Range Complex), but rather focused on priority monitoring projects that are not necessarily tied to the geographic area addressed in the rule, the ICMP will be modified to include a very clear and unclassified record-keeping system that will allow NMFS and the public to see how each Range Complex/project is contributing to all of the ongoing monitoring (resources, effort, money, etc.).

Adaptive Management

Our understanding of the effects of HFAS/MFAS on marine mammals is still in its relative infancy, and yet the science in this field is evolving fairly quickly. These circumstances make the inclusion of an adaptive management component both valuable and necessary within the context of 5-year regulations for activities that have been associated with marine mammal mortality in certain circumstances and locations (though not the NSWC PCD Study Area). The use of adaptive management will give NMFS the ability to consider new data from different sources to determine (in coordination with the Navy), on an annual basis, if new or modified mitigation or monitoring measures are appropriate for subsequent annual LOAs. Following are some of the possible sources of applicable data:

- Results from the Navy's monitoring from the previous year (either from the NSWC PCD Study Area or other locations).
- Results from specific stranding investigations (either from the NSWC PCD Study Area or other locations, and involving coincident NSWC PCD RDT&E or not involving coincident use).
- Results from the research activities associated with Navy's HFAS/MFAS.
- Results from general marine mammal and sound research (funded by the Navy or otherwise).
- Any information which reveals that marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent Letters of Authorization.

Mitigation measures could be modified or added if new data suggest that such modifications would have a reasonable likelihood of accomplishing the goals of mitigation laid out in this proposed rule and if the measures are practicable. NMFS would also coordinate with the Navy to modify or add to the existing monitoring requirements if the new data suggest that the addition of a particular measure would more effectively accomplish the goals of monitoring laid out in this proposed rule. The reporting requirements associated with this proposed rule are designed to provide

NMFS with monitoring data from the previous year to allow NMFS to consider the data in issuing annual LOAs. NMFS and the Navy will meet annually prior to LOA issuance to discuss the monitoring reports, Navy R&D developments, and current science and whether mitigation or monitoring modifications are appropriate.

Reporting

In order to issue an ITA for an activity, section 101(a)(5)(A) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring. Some of the reporting requirements are still in development and the final rule may contain additional details not contained in the proposed rule. Additionally, proposed reporting requirements may be modified, removed, or added based on information or comments received during the public comment period.

General Notification of Injured or Dead Marine Mammals

Navy personnel will ensure that NMFS (regional stranding coordinator) is notified immediately (or as soon as clearance procedures allow) if an injured or dead marine mammal is found during or shortly after, and in the vicinity of, any Navy mission activities utilizing MFAS, HFAS, or underwater explosive detonations. The Navy will provide NMFS with species or description of the animal(s), the condition of the animal(s) (including carcass condition if the animal is dead), location, time of first discovery, observed behaviors (if alive), and photo or video (if available). The Stranding Response Plan contains more specific reporting requirements for specific circumstances.

Annual Report

The Navy will submit its first annual report to the Office of Protected Resources, NMFS, no later than 120 days before the expiration of the LOA. These reports will, at a minimum, include the following information:

• The estimated number of hours of sonar operation, broken down by source type.

• If possible, the total number of hours of observation effort (including observation time when sonar was not operating).

• A report of all marine mammal sightings (at any distance—not just within a particular distance) to include, when possible and to the best of their ability, and if not classified:

—Species.
—Number of animals sighted.
—Location of marine mammal sighting.
—Distance of animal from any operating sonar sources.
—Whether animal is fore, aft, port, starboard.
—Direction animal is moving in relation to source (away, towards, parallel).
—Any observed behaviors of marine mammals.

• The status of any sonar sources (what sources were in use) and whether or not they were powered down or shut down as a result of the marine mammal observation.

• The platform that the marine mammals were sighted from.

NSWC PCD Comprehensive Report

The Navy will submit to NMFS a draft report that analyzes and summarizes all of the multi-year marine mammal information gathered during HFAS/MFAS and underwater detonation related mission activities for which annual reports are required as described above. This report will be submitted at the end of the fourth year of the rule (March 2013), covering activities that have occurred through October 1, 2012. The Navy will respond to NMFS comments on the draft comprehensive report if submitted within 3 months of receipt. The report will be considered final after the Navy has addressed NMFS' comments, or three months after the submittal of the draft if NMFS does not comment by then.

Analysis and Negligible Impact Determination

Pursuant to NMFS' regulations implementing the MMPA, an applicant is required to estimate the number of animals that will be ''taken'' by the specified activities (i.e., takes by harassment only, or takes by harassment, injury, and/or death). This estimate informs the analysis that NMFS must perform to determine whether the activity will have a ''negligible impact'' on the species or stock. Level B (behavioral) harassment occurs at the level of the individual(s) and does not assume any resulting population-level consequences, though there are known avenues through which behavioral disturbance of individuals can result in population-level effects. A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (i.e., population-level effects). An estimate of the number of Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), or any of the other variables mentioned in the first paragraph (if known), as well as the number and nature of estimated Level A takes, the number of estimated mortalities, and effects on habitat.

The Navy's specified activities have been described based on best estimates of the number of HFAS/MFAS hours that the Navy will conduct and the planned detonation events. Taking the above into account, considering the sections discussed below, and dependent upon the implementation of the proposed mitigation measures, NMFS has preliminarily determined that Navy's RDT&E activities utilizing HFAS/MFAS and underwater detonations will have a negligible impact on the marine mammal species and stocks present in the NSWC PCD Study Area.

Behavioral Harassment

As discussed in the Potential Effects of Exposure of Marine Mammals to HFAS/MFAS and illustrated in the conceptual framework, marine mammals can respond to HFAS/MFAS in many different ways, a subset of which qualifies as harassment. One thing that the take estimates do not take into account is the fact that most marine mammals will likely avoid strong sound sources to one extent or another. Although an animal that avoids the sound source will likely still be taken in some instances (such as if the avoidance results in a missed opportunity to feed, interruption of reproductive behaviors, etc.) in other cases avoidance may result in fewer instances of take than were estimated or in the takes resulting from exposure to a lower received level than was estimated, which could result in a less severe response. The Navy proposes only 77 hours of mid-frequency sonar operations per year (Table 2) in the NSWC PCD Study Area, and the use of the most powerful 53C series sonar will be limited to just 4 hours per year. Therefore, any disturbance to marine mammals resulting from 53C and other MFAS is expected to be significantly less in terms of severity and duration when compared to major sonar exercises (e.g., AFAST, HRC, SOCAL). As for the HFAS, source levels of those HFAS are not as high as the 53C series MFAS. In addition, high frequency signals tend to

have more attenuation in the water column and are more prone to lose their energy during propagation. Therefore, their zones of influence are much smaller, thereby making it easier to detect marine mammals and prevent adverse effects from occurring.

There is little information available concerning marine mammal reactions to MFAS/HFAS. The Navy has only been conducting monitoring activities since 2006 and has not compiled enough data to date to provide a meaningful picture of effects of HFAS/MFAS on marine mammals, particularly in the NSWC PCD Study Area. From the four major training exercises (MTEs) of HFAS/MFAS in the AFAST Study Area for which NMFS has received a monitoring report, no instances of obvious behavioral disturbance were observed by the Navy watchstanders in the 700+ hours of effort in which 79 sightings of marine mammals were made (10 during active sonar operation). One cannot conclude from these results that marine mammals were not harassed from HFAS/MFAS, as a portion of animals within the area of concern were not seen (especially those more cryptic, deep-diving species, such as beaked whales or *Kogia* sp.) and some of the non-biologist watchstanders might not have had the expertise to characterize behaviors. However, the data demonstrate that the animals that were observed did not respond in any of the obviously more severe ways, such as panic, aggression, or anti-predator response.

In addition to the monitoring that will be required pursuant to these regulations and subsequent LOAs, which is specifically designed to help us better understand how marine mammals respond to sound, the Navy and NMFS have developed, funded, and begun conducting a controlled exposure experiment with beaked whales in the Bahamas.

Diel Cycle

As noted previously, many animals perform vital functions, such as feeding, resting, traveling, and socializing on a diel cycle (24-hr cycle). Substantive behavioral reactions to noise exposure (such as disruption of critical life functions, displacement, or avoidance of important habitat) are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). Consequently, a behavioral response lasting less than one day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.,* 2007).

In the previous section, we discussed the fact that potential behavioral responses to HFAS/MFAS and underwater detonations that fall into the category of harassment could range in severity. By definition, the takes by behavioral harassment involve the disturbance of a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns (such as migration, surfacing, nursing, breeding, feeding, or sheltering) to a point where such behavioral patterns are abandoned or significantly altered. These reactions would, however, be more of a concern if they were expected to last over 24 hours or be repeated in subsequent days. For hull-mounted sonar 53C series sonar (the highest power source), the total time of operation is only 4 hours per year, with 3 hours planned in territorial waters and 1 hour in non-territorial waters. Different sonar testing and underwater detonation activities will not occur simultaneously. When this is combined with the fact that the majority of the cetaceans in the NSWC PCD Study Area would not likely remain in the same area for successive days, it is unlikely that animals would be exposed to HFAS/MFAS and underwater detonations at levels or for a duration likely to result in a substantive response that would then be carried on for more than one day or on successive days.

TTS

NMFS and the Navy have estimated that individuals of some species of marine mammals may sustain some level of TTS from HFAS/MFAS and/or underwater detonation. As mentioned previously, TTS can last from a few minutes to days, be of varying degree, and occur across various frequency bandwidths. The TTS sustained by an animal is primarily classified by three characteristics:

- Frequency—Available data (of mid-frequency hearing specialists exposed to mid to high frequency sounds—Southall *et al.,* 2007) suggest that most TTS occurs in the frequency range of the source up to one octave higher than the source (with the maximum TTS at ½ octave above).
- Degree of the shift (i.e., how many dB is the sensitivity of the hearing reduced by)—generally, both the degree of TTS and the duration of TTS will be greater if the marine mammal is exposed to a higher level of energy (which would occur when the peak dB level is higher or the duration is longer). The threshold for the onset of TTS (>6 dB) for Navy sonars is 195 dB (SEL), which might be received at distances of up to 275–500 m from the most powerful MFAS source, the AN/SQS–53 (the maximum ranges to TTS from other sources would be less). An animal would have to approach closer to the source or remain in the vicinity of the sound source appreciably longer to increase the received SEL, which would be difficult considering the marine observers and the nominal speed of a sonar vessel (10–12 knots). Of all TTS studies, some using exposures of almost an hour in duration or up to 217 SEL, most of the TTS induced was 15 dB or less, though Finneran *et al.* (2007) induced 43 dB of TTS with a 64-sec exposure to a 20 kHz source (MFAS emits a 1-s ping 2 times/minute). The threshold for the onset of TTS for detonations is a dual criteria: 182 dB re 1 microPa^2-sec or 23 psi, which might be received at distances from 345–2,863 m from the centers of detonation based on the types of NEW involved.
- Duration of TTS (Recovery time)—see above. Of all TTS laboratory studies, some using exposures of almost an hour in duration or up to 217 SEL, almost all recovered within 1 day (or less, often in minutes), though in one study (Finneran *et al.,* 2007), recovery took 4 days.

Based on the range of degree and duration of TTS reportedly induced by exposures to non-pulse sounds of energy higher than that to which free-swimming marine mammals in the field are likely to be exposed during HFAS/MFAS testing activities, it is unlikely that marine mammals would sustain a TTS from MFAS that alters their sensitivity by more than 20 dB for more than a few days (and the majority would be far less severe). Also, for the same reasons discussed in the Diel Cycle section, and because of the short distance within which animals would need to approach the sound source, it is unlikely that animals would be exposed to the levels necessary to induce TTS in subsequent time periods such that their recovery were impeded. Additionally, though the frequency range of TTS that marine mammals might sustain would overlap with some of the frequency ranges of their vocalization types, the frequency range of TTS from MFAS (the source from which TTS would more likely be sustained because the higher source level and slower attenuation make it more likely that an animal would be exposed to a higher level) would not usually span the entire frequency range of one vocalization type, much less span all types of vocalizations.

For underwater detonations, due to its brief impulse of sounds, animals have to be at distances from 345–2,863 m from the center of detonation, based on the types of NEW involved to receive the

SEL that causes TTS compared to similar source level with longer durations (such as sonar signals).

Acoustic Masking or Communication Impairment

As discussed above, it is also possible that anthropogenic sound could result in masking of marine mammal communication and navigation signals. However, masking only occurs during the time of the signal (and potential secondary arrivals of indirect rays), versus TTS, which occurs continuously for its duration. Standard HFAS/MFAS sonar pings last on average one second and occur about once every 24–30 seconds for hull-mounted sources. When hull-mounted sonar is used in the Kingfisher mode, pulse length is shorter, but pings are much closer together (both in time and space, since the vessel goes slower when operating in this mode). For the sources for which we know the pulse length, most are significantly shorter than hull-mounted sonar, on the order of several microseconds to 10s of micro seconds. For hull-mounted sonar, though some of the vocalizations that marine mammals make are less than one second long, there is only a 1 in 24 chance that they would occur exactly when the ping was received, and when vocalizations are longer than one second, only parts of them are masked. Alternately, when the pulses are only several microseconds long, the majority of most animals' vocalizations would not be masked. Masking effects from HFAS/MFAS are expected to be minimal. Likewise, the masking effects from underwater detonation are also considered to be unlikely due to the much shorter impulsive signals from explosions. If masking or communication impairment were to occur briefly, it would be in the frequency range of MFAS, which overlaps with some marine mammal vocalizations; however, it would likely not mask the entirety of any particular vocalization or communication series because the pulse length, frequency, and duty cycle of the HFAS/MFAS signal does not perfectly mimic the characteristics of any marine mammal's vocalizations.

PTS, Injury, or Mortality

The Navy's model estimated that 1 individual of bottlenose dolphin and 1 individual of Atlantic spotted dolphin could experience severe lung injury (i.e., mortality) from explosive ordnance activities; and 1 individual each of bottlenose, Atlantic spotted, pantropical spotted, and spinner dolphins from slight lung injury (Level A harassment) as a result of the underwater detonation exposures in the range of 76–272 lb NEW (34–272 kg) in non-territorial waters per year. However, these estimates do not take into consideration the proposed mitigation measures. For sonar operations, NMFS believes that many marine mammals would deliberately avoid exposing themselves to the received levels necessary to induce injury (i.e., approaching to within approximately 10 m (10.9 yd) of the source). Animals would likely move away from or at least modify their path to avoid a close approach. Additionally, in the unlikely event that an animal approaches the sonar vessel at a close distance, NMFS believes that the mitigation measures (i.e., shutdown/power-down zones for HFAS/MFAS) further ensure that animals would be not be exposed to injurious levels of sound. As for underwater detonations, the animals have to be within the 203 m ZOI to experience severe lung injury or mortality. NMFS believes it is unlikely that Navy observers will fail to detect an animal in such a small area during pre-testing surveys. As discussed previously, the Navy plans to utilize aerial (when available) in addition to marine observers on vessels to detect marine mammals for mitigation implementation and indicated that they are capable of effectively monitoring safety zones. When these points are considered, NMFS does not believe that any marine mammals will experience severe lung injury or mortality from exposure to HFAS/MFAS or underwater detonation. Instead, based on proposed mitigation and monitoring measures, NMFS preliminary determines that 2 individuals of bottlenose and Atlantic spotted dolphins, and 1 individual of pantropical spotted and spinner dolphins would receive slight lung injury (Level A harassment) as a result of underwater detonation exposures in the range of 76–272 lb NEW (34–272 kg) in non-territorial waters per year.

Based on the aforementioned assessment, NMFS determines that approximately 2 sperm whales, 2 melon-headed whales, 1 short-finned pilot whale, 2 rough-toothed dolphins, 614 bottlenose dolphins, 471 Atlantic spotted dolphins, 23 pantropical spotted dolphins, 5 striped dolphins, 23 spinner dolphins, and 5 Clymene dolphins would be affected by Level B harassment (TTS and sub-TTS) as a result of the proposed NSWC PCD RDT&E sonar and underwater detonation testing activities. These numbers represent approximately 0.12%, 0.08%, 0.14%, 0.07%, 2.85%, 1.72%, 0.07%, 0.15%, 1.16%, and 0.08% of sperm whales, melon-headed whales, short-finned pilot whale, rough-toothed dolphins, bottlenose dolphins, Atlantic spotted dolphins, pantropical spotted dolphins, striped dolphins, spinner dolphins, and Clymene dolphins, respectively in the vicinity of the proposed NSWC PCD Study Area (calculation based on NMFS 2007 US Atlantic and Gulf of Mexico Marine Mammal Stock Assessment).

In addition, the Level A takes of 2 bottlenose, 2 Atlantic spotted, 1 pantropical spotted, and 1 spinner dolphins represent 0.009%, 0.007%, 0.003%, and 0.050% of these species in the vicinity of the proposed NSWC PCD Study Area (calculation based on NMFS 2007 US Atlantic and Gulf of Mexico Marine Mammal Stock Assessment).

Based on the supporting analyses, which suggest that no marine mammals will be killed as a result of these activities, only 6 individuals of dolphins (2 bottlenose, 2 Atlantic spotted, 1 pantropical spotted, and 1 spinner dolphins) would experience injury (Level A harassment), and no more than a small percentage of the individuals of any affected species will be taken in the form of short-term Level B harassment per year. Coupled with the fact that these impacts will likely not occur in areas and times critical to reproduction, NMFS has preliminarily determined that the total taking over the 5-year period of the regulations and subsequent LOAs from the Navy's NSWC PCD RDT&E mission activities will have a negligible impact on the marine mammal species and stocks present in the NSWC PCD Study Area.

Subsistence Harvest of Marine Mammals

NMFS has preliminarily determined that the total taking of marine mammal species or stocks from the Navy's mission activities in the NSWC PCD study area would not have an unmitigable adverse impact on the availability of the affected species or stocks for subsistence uses, since there are no such uses in the specified area.

ESA

There are six marine mammal species of which NMFS has jurisdiction that are listed as endangered under the ESA that could occur in the NSWC PCD study area: Humpback whale, North Atlantic right whale, blue whale, fin whale, sei whale, and sperm whale. The Navy has begun consultation with NMFS pursuant to section 7 of the ESA, and NMFS will also consult internally on the issuance of an LOA under section 101(a)(5)(A) of the MMPA for mission activities in the NSWC PCD study area. Consultation will be concluded prior to

a determination on the issuance of the final rule and an LOA.

NEPA

The Navy is preparing an Environmental Impact Statement (EIS) for the proposed NSWC PCD mission activities. A draft EIS was released for public comment from April 4–May 19, 2008 and is available at *http://nswcpc.navsea.navy.mil/Environment-Documents.htm.* NMFS is a cooperating agency (as defined by the Council on Environmental Quality (40 CFR 1501.6)) in the preparation of the EIS. NMFS has reviewed the Draft EIS and will be working with the Navy on the Final EIS (FEIS).

NMFS intends to adopt the Navy's FEIS, if adequate and appropriate, and we believe that the Navy's FEIS will allow NMFS to meet its responsibilities under NEPA for the issuance of the 5-year regulations and LOAs (as warranted) for mission activities in the NSWC PCD study area. If the Navy's FEIS is not adequate, NMFS would supplement the existing analysis and documents to ensure that we comply with NEPA prior to the issuance of the final rule and LOA.

Preliminary Determination

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat and dependent upon the implementation of the mitigation and monitoring measures, NMFS preliminarily finds that the total taking from Navy mission activities utilizing HFAS/MFAS and underwater explosives in the NSWC PCD study area will have a negligible impact on the affected marine mammal species or stocks. NMFS has proposed regulations for these exercises that prescribe the means of effecting the least practicable adverse impact on marine mammals and their habitat and set forth requirements pertaining to the monitoring and reporting of such taking.

Classification

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

This proposed rule has been determined by the Office of Management and Budget to be not significant for purposes of Executive Order 12866.

Pursuant to the Regulatory Flexibility Act, the Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The RFA requires Federal agencies to prepare an analysis of a rule's impact on small entities whenever the agency is required to publish a notice of proposed rulemaking. However, a Federal agency may certify, pursuant to 5 U.S.C. 605(b), that the action will not have a significant economic impact on a substantial number of small entities. The Navy is the sole entity that will be affected by this proposed rulemaking, not a small governmental jurisdiction, small organization or small business, as defined by the RFA. This proposed rulemaking authorizes the take of marine mammals incidental to a specified activity. The specified activity defined in the proposed rule includes the use of high-frequency and mid-frequency sonar and underwater detonations during training activities that are only conducted by the U.S. Navy. Additionally, the proposed regulations are specifically written for ''military readiness'' activities, as defined by the Marine Mammal Protection Act, as amended by the National Defense Authorization Act, which means that they cannot apply to small businesses. Additionally, any requirements imposed by a Letter of Authorization issued pursuant to these regulations, and any monitoring or reporting requirements imposed by these regulations, will be applicable only to the Navy. Because this action, if adopted, would directly affect the Navy and not a small entity, NMFS concludes the action would not result in a significant economic impact on a substantial number of small entities. Accordingly, no IRFA is required and none has been prepared.

List of Subjects in 50 CFR Part 218

Exports, Fish, Imports, Incidental take, Indians, Labeling, Marine mammals, Navy, Penalties, Reporting and recordkeeping requirements, Seafood, Sonar, Transportation.

Dated: April 22, 2009.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 218, as proposed to be added at 73 FR 75655, December 12, 2008, is proposed to be amended as follows:

PART 218—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

1. The authority citation for part 218 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

2. Subpart S is added to part 218 to read as follows:

Subpart S—Taking Marine Mammals Incidental to U.S. Navy Mission Activities in the Naval Surface Warfare Center Panama City Division Study Area

Sec.
218.180 Specified activity and specified geographical region.
218.181 Permissible methods of taking.
218.182 Prohibitions.
218.183 Mitigation.
218.184 Requirements for monitoring and reporting.
218.185 Applications for Letters of Authorization.
218.186 Letters of Authorization.
218.187 Renewal of Letters of Authorization and adaptive management.
218.188 Modifications to Letters of Authorization.

Subpart S—Taking Marine Mammals Incidental to U.S. Navy Mission Activities in the Naval Surface Warfare Center Panama City Division Study Area

§ 218.180 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the U.S. Navy for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occur incidental to the activities described in paragraph (c) of this section.

(b) The taking of marine mammals by the Navy is only authorized if it occurs within the NSWC PCD Study, which includes St. Andrew Bay (SAB) and military warning areas (areas within the GOM subject to military operations) W–151 (includes Panama City Operating Area), W–155 (includes Pensacola Operating Area), and W–470. A detailed description of these specific geographic regions is listed in Figures 2–1 and 2–2 of the Navy's application for the Letter of Authorization (LOA). The NSWC PCD Study Area includes a Coastal Test Area, a Very Shallow Water Test Area, and Target and Operational Test Fields. The NSWC PCD Research, Development, Test, and Evaluation (RDT&E) activities may be conducted anywhere within the existing military operating areas and SAB from the mean high water line (average high tide mark) out to 222 km (120 nm) offshore. The locations and environments include:

(1) Test area control sites adjacent to NSWC PCD.

(2) Wide coastal shelf 97 km (52 nm) distance offshore to 183 m (600 ft), including bays and harbors.

(c) The taking of marine mammals by the Navy is only authorized if it occurs incidental to the following activities within the designated amounts of use:

(1) Surface operations in territorial and non-territorial waters:

(i) Diving;

(ii) Salvage;

(iii) Use of robotic vehicles;

(iv) Use of underwater unmanned vehicles; and

(v) Mooring and burying of mines.

(2) The use of the following high frequency active sonar (HFAS) and mid-frequency active sonar (MFAS) or similar sources for U.S. Navy mission activities in territorial waters in the amounts indicated below:

(i) AN/SQS–53/56 Kingfisher—up to 15 hours over the course of 5 years (an average of 3 hours per year);

(ii) Sub-bottom profiler (2–9 kHz)—up to 105 hours over the course of 5 years (an average of 21 hours per year);

(iii) REMUS SAS–LF (center frequency 15 kHz)—up to 60 hours over the course of 5 years (an average of 12 hours per year);

(iv) REMUS Modem—up to 125 hours over the course of 5 years (an average of 25 hours per year);

(v) Sub-bottom profiler (2–16 kHz)—up to 120 hours over the course of 5 years (an average of 24 hours per year);

(vi) AN/SQQ–32—up to 150 hours over the course of 5 years (an average of 30 hours per year);

(vii) REMUS–SAS–LF (center frequency 20 kHz)—up to 100 hours over the course of 5 years (an average of 20 hours per year);

(viii) SAS–LF—up to 175 hours over the course of 5 years (an average of 35 hours per year);

(ix) AN/WLD–1 RMS–ACL—up to 168 hours over the course of 5 years (an average of 33.5 hours per year);

(x) BPAUV Sidescan (center frequency 75 kHz)—up to 125 hours over the course of 5 years (an average of 25 hours per year);

(xi) TVSS—up to 75 hours over the course of 5 years (an average of 15 hours per year);

(xii) F84Y—up to 75 hours over the course of 5 years (an average of 15 hours per year);

(xiii) BPAUV Sidescan (center frequency 102.5 kHz)—up to 125 hours over the course of 5 years (an average of 25 hours per year);

(xiv) REMUS–SAS–HF—up to 50 hours over the course of 5 years (an average of 10 hours per year);

(xv) SAS–HF—up to 58 hours over the course of 5 years (an average of 11.5 hours per year);

(xvi) AN/SQS–20—up to 2,725 hours over the course of 5 years (an average of 545 hours per year);

(xvii) AN/WLD–11 RMS Navigation—up to 75 hours over the course of 5 years (an average of 15 hours per year); and

(xviii) BPAUV Sidescan (center frequency 120 kHz)—up to 150 hours over the course of 5 years (an average of 30 hours per year).

(3) The use of the following high frequency active sonar (HFAS) and mid-frequency active sonar (MFAS) or similar sources for U.S. Navy mission activities in non-territorial waters in the amounts indicated below:

(i) AN/SQS–53/56 Kingfisher—up to 5 hours over the course of 5 years (an average of 1 hour per year);

(ii) Sub-bottom profiler (2–9 kHz)—up to 5 hours over the course of 5 years (an average of 1 hour per year);

(iii) REMUS Modem—up to 60 hours over the course of 5 years (an average of 12 hours per year);

(iv) Sub-bottom profiler (2–16 kHz)—up to 5 hours over the course of 5 years (an average of 1 hour per year);

(v) AN/SQQ–32—up to 5 hours over the course of 5 years (an average of 1 hour per year);

(vi) SAS–LF—up to 75 hours over the course of 5 years (an average of 15 hours per year);

(vii) AN/WLD–1 RMS–ACL—up to 25 hours over the course of 5 years (an average of 5 hours per year);

(viii) BPAUV Sidescan (center frequency 75 kHz)—up to 190 hours over the course of 5 years (an average of 38 hours per year);

(ix) TVSS—up to 83 hours over the course of 5 years (an average of 16.5 hours per year);

(x) F84Y—up to 75 hours over the course of 5 years (an average of 15 hours per year);

(xi) REMUS–SAS–HF—up to 125 hours over the course of 5 years (an average of 25 hours per year);

(xii) SAS–HF—up to 75 hours over the course of 5 years (an average of 15 hours per year);

(xiii) AN/AQS–20—up to 75 hours over the course of 5 years (an average of 15 hours per year); and

(xiv) BPAUV Sidescan (center frequency 120 kHz)—up to 125 hours over the course of 5 years (an average of 25 hours per year).

(4) Ordnance operations for U.S. Navy mission activities in territorial waters in the amounts indicated below:

(i) Range 1 (0–10 lbs.)—up to 255 detonations over the course of 5 years (an average of 51 detonations per year);

(ii) Range 2 (11–75 lbs.)—up to 15 detonations over the course of 5 years (an average of 3 detonations per year); and

(iii) Line charges—up to 15 detonations over the course of 5 years (an average of 3 detonations per year).

(5) Ordnance operations for U.S. Navy mission activities in non-territorial waters in the amounts indicated below:

(i) Range 3 (76–600 lbs.)—up to 80 detonations over the course of 5 years (an average of 16 detonations per year).

(ii) Reserved.

(6) Projectile firing operations for U.S. Navy mission activities in non-territorial waters in the amounts indicated below:

(i) 5 in. Naval gunfire—up to 300 rounds over the course of 5 years (an average of 60 rounds per year);

(ii) 40 mm rounds—up to 2,400 rounds over the course of 5 years (an average of 480 rounds per year);

(iii) 30 mm rounds—up to 3,000 rounds over the course of 5 years (an average of 600 rounds per year);

(iv) 20 mm rounds—up to 14,835 rounds over the course of 5 years (an average of 2,967 rounds per year);

(v) 76 mm rounds—up to 1,200 rounds over the course of 5 years (an average of 240 rounds per year);

(vi) 25 mm rounds—up to 2,625 rounds over the course of 5 years (an average of 525 rounds per year); and

(vii) Small arms—up to 30,000 rounds over the course of 5 years (an average of 6,000 rounds per year).

§ 218.181 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to §§ 216.106 and 218.186 of this chapter, the Holder of the Letter of Authorization may incidentally, but not intentionally, take marine mammals within the area described in § 218.180(b), provided the activity is in compliance with all terms, conditions, and requirements of these regulations and the appropriate Letter of Authorization.

(b) The incidental take of marine mammals under the activities identified in § 218.180(c) is limited to the following species, by the indicated method of take and the indicated number of times:

(1) Level B Harassment:

(i) Sperm whale (*Physeter macrocephalus*)—10 (an average of 2 annually),

(ii) Risso's dolphin (*Grampus griseus*)—10 (an average of 2 annually);

(iii) Bottlenose dolphin (*Tursiops truncatus*)—3,070 (an average of 614 annually);

(iv) Atlantic spotted dolphin (*Stenella frontalis*)—2,355 (an average of 471 annually);

(v) Pantropical spotted dolphin (*S. attenuata)*—115 (an average of 23 annually);

(vi) Striped dolphin (*S. coeruleoalba*)—25 (an average of 5 annually);

(vii) Spinner dolphin (*S. longirostris*)—115 (an average of 23 annually);

(viii) Melon-headed whale (*Peponocephala electra*)—10 (an average of 2 annually);

(ix) Short-finned pilot whale (Globicephala macrorhynchus)—5 (an average of 1 annually);

(x) Clymene dolphin (*S. clymene*)—25 (an average of 5 annually);

(2) Level A Harassment:

(i) Bottlenose dolphin (*Tursiops truncatus*)—10 (an average of 2 annually);

(ii) Atlantic spotted dolphin (*Stenella frontalis*)—10 (an average of 2 annually);

(iii) Pantropical spotted dolphin (*S. attenuata)*—5 (an average of 1 annually);

(ix) Spinner dolphin (Stenella longirostris)—5 (an average of 1 annually).

§ 218.182 Prohibitions.

Notwithstanding takings contemplated in § 218.181 and authorized by a Letter of Authorization issued under § 216.106 of this chapter and § 218.186, no person in connection with the activities described in § 218.180 may:

(a) Take any marine mammal not specified in § 218.181(b);

(b) Take any marine mammal specified in § 218.181(b) other than by incidental take as specified in § 218.181(b)(1) and (2);

(c) Take a marine mammal specified in § 218.181(b) if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of these regulations or a Letter of Authorization issued under § 216.106 of this chapter and § 218.186.

§ 218.183 Mitigation.

(a) When conducting RDT&E activities identified in § 218.180(c), the mitigation measures contained in this subpart and subsequent Letters of Authorization issued under §§ 216.106 and 218.186 of this chapter must be implemented. These mitigation measures include, but are not limited to:

(1) Mitigation Measures for HFAS/MFAS Operations

(i) Personnel Training;

(A) All marine observers onboard platforms involved in NSWC PCD RDT&E activities shall review the NMFS-approved Marine Species Awareness Training (MSAT) material prior to use of HFAS/MFAS.

(B) Marine observers shall be trained in the most effective means to ensure quick and effective communication within the command structure in order to facilitate implementation of mitigation measures if marine species are spotted.

(ii) Marine Observer and Watchstander Responsibilities;

(A) On the bridge of surface vessels, there shall always be at least one to three marine species awareness trained observer(s) on watch whose duties include observing the water surface around the vessel.

(*1*) For vessels with length under 65 ft (20 m), there shall always be at least one marine observer on watch.

(*2*) For vessels with length between 65–200 ft (20–61 m), there shall always be at least two marine observers on watch.

(*3*) For vessels with length above 200 ft (61 m), there shall always be at least three marine observers on watch.

(B) Each marine observer shall have at their disposal at least one set of binoculars available to aid in the detection of marine mammals.

(C) On surface vessels equipped with AN/SQQ–53C/56, pedestal mounted ''Big Eye'' (20 x 110) binoculars shall be present and in good working order to assist in the detection of marine mammals in the vicinity of the vessel.

(D) Marine observer shall employ visual search procedures employing a scanning methodology in accordance with the Lookout Training Handbook (NAVEDTRA 12968–D).

(E) Marine observers shall scan the water from the vessel to the horizon and be responsible for all contacts in their sector follow the below protocols:

(*1*) In searching the assigned sector, the marine observer shall always start at the forward part of the sector and search aft (toward the back).

(*2*) To search and scan, the marine observer shall hold the binoculars steady so the horizon is in the top third of the field of vision and direct the eyes just below the horizon.

(*3*) The marine observer shall scan for approximately five seconds in as many small steps as possible across the field seen through the binoculars.

(*4*) The marine observers shall search the entire sector in approximately five-degree steps, pausing between steps for approximately five seconds to scan the field of view.

(*5*) At the end of the sector search, the glasses would be lowered to allow the eyes to rest for a few seconds, and then the marine observer shall search back across the sector with the naked eye.

(F) After sunset and prior to sunrise, marine observers shall employ Night Lookout Techniques in accordance with the Lookout Training Handbook.

(G) At night, marine observers shall scan the horizon in a series of movements that would allow their eyes to come to periodic rests as they scan the sector. When visually searching at night, marine observers shall look a little to one side and out of the corners of their eyes, paying attention to the things on the outer edges of their field of vision.

(H) Marine observers shall be responsible for reporting all objects or anomalies sighted in the water (regardless of the distance from the vessel) to the Test Director or the Test Director's designee.

(iii) Operating Procedures;

(A) A Record of Environmental Consideration shall be included in the Test Plan prior to the test event to further disseminate the personnel testing requirement and general marine mammal mitigation measures.

(B) Test Directors shall make use of marine species detection cues and information to limit interaction with marine species to the maximum extent possible consistent with safety of the vessel.

(C) All personnel engaged in passive acoustic sonar operation (including aircraft or surface vessels) shall monitor for marine mammal vocalizations and report the detection of any marine mammal to the Test Director or the Test Director's designee for dissemination and appropriate action.

(D) During HFAS/MFAS mission activities, personnel shall utilize all available sensor and optical systems (such as Night Vision Goggles) to aid in the detection of marine mammals.

(E) Navy aircraft participating in exercises at sea shall conduct and maintain surveillance for marine species of concern as long as it does not violate safety constraints or interfere with the accomplishment of primary operational duties.

(F) Aircraft with deployed sonobuoys shall use only the passive capability of sonobuoys when marine mammals are detected within 200 yards of the sonobuoy.

(G) Marine mammal detections shall be immediately reported to assigned Aircraft Control Unit for further dissemination to vessels in the vicinity of the marine species as appropriate where it is reasonable to conclude that the course of the vessel will likely result in a closing of the distance to the detected marine mammal.

(H) Safety Zones—When marine mammals are detected by any means (aircraft, shipboard marine observer, or acoustically) the Navy will ensure that HFAS/MFAS transmission levels are limited to at least 6 dB below normal operating levels if any detected marine mammals are within 1,000 yards (914 m) of the sonar dome (the bow).

(*1*) Vessels shall continue to limit maximum HFAS/MFAS transmission levels by this 6–dB factor until the marine mammal has been seen to leave the area, has not been detected for 30 minutes, or the vessel has transited more than 2,000 yards (1,828 m) beyond the location of the last detection.

(*2*) The Navy shall ensure that HFAS/MFAS transmissions will be limited to at least 10 dB below the equipment's normal operating level if any detected animals are within 500 yards (457 m) of the sonar dome. Vessels will continue to limit maximum ping levels by this 10–dB factor until the marine mammal has been seen to leave the area, has not been detected for 30 minutes, or the vessel has transited more than 2,000 yards (1,828 m) beyond the location of the last detection.

(*3*) The Navy shall ensure that HFAS/MFAS transmissions are ceased if any detected marine mammals are within 200 yards (183 m) of the sonar dome. HFAS/MFAS will not resume until the marine mammal has been seen to leave the area, has not been detected for 30 minutes, or the vessel has transited more than 2,000 yards (1,828 m) beyond the location of the last detection.

(*4*) Special conditions applicable for dolphins and porpoises only: If, after conducting an initial maneuver to avoid close quarters with dolphins or porpoises, the Officer of the Deck concludes that dolphins or porpoises are deliberately closing to ride the vessel's bow wave, no further mitigation actions are necessary while the dolphins or porpoises continue to exhibit bow wave riding behavior.

(*5*) If the need for power-down should arise as detailed in ''Safety Zones'' above, Navy shall follow the requirements as though they were operating at 235 dB—the normal operating level (i.e., the first power-down will be to 229 dB, regardless of at what level above 235 sonar was being operated).

(I) Prior to start up or restart of active sonar, operators will check that the Safety Zone radius around the sound source is clear of marine mammals.

(J) Sonar levels (generally)—Navy shall operate sonar at the lowest practicable level, not to exceed 235 dB, except as required to meet RDT&E objectives.

(K) Helicopters shall observe/survey the vicinity of mission activities for 10 minutes before the first deployment of active (dipping) sonar in the water.

(L) Helicopters shall not dip their sonar within 200 yards (183 m) of a marine mammal and shall cease pinging if a marine mammal closes within 200 yards (183 m) after pinging has begun.

(M) Submarine sonar operators shall review detection indicators of close-aboard marine mammals prior to the commencement of mission activities involving active mid-frequency and high frequency sonar.

(2) Proposed Mitigation Measures for Ordnance and Projectile Firing

(i) No detonations over 34 kg (75 lb) shall be conducted in territorial waters, except the line charge detonation, which is a 107 m (350 ft).

(ii) The number of live mine detonations shall be minimized and the smallest amount of explosive material possible to achieve test objectives will be used.

(iii) Activities shall be coordinated through the Environmental Help Desk to allow potential concentrations of detonations in a particular area over a short time to be identified and avoided.

(iv) Visual surveys and aerial surveys of the clearance zones specified in § 218.183(2)(vi)(A)–(C)shall be conducted in accordance with § 218.184(e) for all test operations that involve detonation events with large net explosive weight (NEW). Any protected species sighted will be reported.

(v) Line charge tests shall not be conducted during the nighttime.

(vi) Additional mitigation measures shall be determined through the NSWC PCD's Environmental Review Process based on test activities including the size of detonations, test platforms, and environmental effects documented in the Navy's EIS/OEIS. Clearance zones must be determined based on the upper limit of different ranges of net explosive weight (NEW) used in the tests, as listed below:

(A) NEW between 76–600 lb: clearance zone is 2,863 m;

(B) NEW between 11–75 lb: clearance zone is 997 m; and

(C) NEW under 11 lb: clearance zone is 345 m.

(3) Proposed Mitigation Measures for Surface Operations and Other Activities:

(i) While underway, vessels shall have at least one to three marine species awareness trained observers (based on vessel length) with binoculars. As part of their regular duties, marine observers shall watch for and report to the Test Director or Test Director's designee the presence of marine mammals.

(A) For vessels with length under 65 ft (20 m), there shall always be at least one marine observer on watch.

(B) For vessels with length between 65–200 ft (20–61 m), there shall always be at least two marine observers on watch.

(C) For vessels with length above 200 ft (61 m), there shall always be at least three marine observers on watch.

(ii) Marine observers shall employ visual search procedures employing a scanning method in accordance with the Lookout Training Handbook (NAVEDTRA 12968–D).

(iii) While in transit, naval vessels shall be alert at all times, use extreme caution, and proceed at a ''safe speed'' (the minimum speed at which mission goals or safety will not be compromised) so that the vessel can take proper and effective action to avoid a collision with any marine animal and can be stopped within a distance appropriate to the prevailing circumstances and conditions.

(iv) When marine mammals have been sighted in the area, Navy vessels shall increase vigilance and shall implement measures to avoid collisions with marine mammals and avoid activities that might result in close interaction of naval assets and marine mammals. Actions shall include changing speed and/or direction and are dictated by environmental and other conditions (e.g., safety, weather).

(v) Naval vessels shall maneuver to keep at least 500 yd (460 m) away from any observed whale and avoid approaching whales head-on. This requirement does not apply if a vessel's safety is threatened, such as when change of course will create an imminent and serious threat to a person, vessel, or aircraft, and to the extent vessels are restricted in their ability to maneuver. Vessels shall take reasonable steps to alert other vessels in the vicinity of the whale.

(vi) Where feasible and consistent with mission and safety, vessels shall avoid closing to within 200 yards (183 m) of marine mammals other than whales.

(vii) All vessels shall maintain logs and records documenting RDT&E activities should they be required for event reconstruction purposes. Logs and records shall be kept for a period of 30 days following completion of a RDT&E mission activity.

(b) [Reserved]

§ 218.184 Requirements for monitoring and reporting.

(a) The Holder of the Letter of Authorization issued pursuant to §§ 216.106 and 218.186 for activities described in § 218.180(c) is required to cooperate with the NMFS when monitoring the impacts of the activity on marine mammals.

(b) The Holder of the Authorization must notify NMFS immediately (or as soon as clearance procedures allow) if the specified activity identified in § 218.180(c) is thought to have resulted in the mortality or injury of any marine mammals, or in any take of marine mammals not identified or authorized in § 218.181(b).

(c) The Holder of the Letter of Authorization must conduct all monitoring and/or research required under the Letter of Authorization.

(d) The Navy shall complete an Integrated Comprehensive Monitoring Program (ICMP) Plan in 2009. This planning and adaptive management tool shall include:

(1) A method for prioritizing monitoring projects that clearly describes the characteristics of a proposal that factor into its priority.

(2) A method for annually reviewing, with NMFS, monitoring results, Navy R&D, and current science to use for potential modification of mitigation or monitoring methods.

(3) A detailed description of the Monitoring Workshop to be convened in 2011 and how and when Navy/NMFS will subsequently utilize the findings of the Monitoring Workshop to potentially modify subsequent monitoring and mitigation.

(4) An adaptive management plan.

(5) A method for standardizing data collection for the NSWC PCD Study Area and across other locations.

(e) The Holder of the Letter of Authorization shall, when conducting training events in the NSWC PCD Study Area, implement the following monitoring methods:

(1) Visual Surveys—Vessel, Aerial and Shore-based

(i) In accordance with all safety considerations, observations shall be maximized by working from all available platforms: vessels, aircraft, land and/or in combination.

(ii) Vessel and aerial surveys shall be conducted two days before, during, and one to five days after the NSWC PCD mission activities on commercial vessels and aircraft.

(iii) Visual surveys shall be conducted during Navy mission activities that have been identified to provide the highest likelihood of success.

(iv) The visual survey team shall collect the same data that are collected by Navy marine observers, including but not limited to:

(A) Location of sighting;

(B) Species (or to the lowest taxa possible);

(C) Number of individuals;

(D) Number of calves present, if any;

(E) Duration of sighting;

(F) Behavior of marine animals sighted;

(G) Direction of travel;

(H) Environmental information associated with sighting event including Beaufort sea state, wave height, swell direction, wind direction, wind speed, glare, percentage of glare, percentage of cloud cover; and

(I) When in relation to Navy exercises did the sighting occur (before, during or after detonations/exercise).

(v) Animal sightings and relative distance from a particular activity site shall be used post survey to estimate the number of marine mammals exposed to different received levels (energy and pressure of discharge based on distance to the source, bathymetry, oceanographic conditions and the type and size of detonation) and their corresponding behavior.

(vi) Any digital photographs that are taken of marine mammals during visual surveys shall be provided to local researchers for their regional research.

(A) Aerial surveys:

(*1*) During NSWC PCD mission activities, an aerial survey team shall fly transects relative to a Navy surface vessel that is conducting the mission activities.

(*2*) The aerial survey team shall collect both visual sightings and behavioral observations of marine animals.

(*3*) These transect data shall provide an opportunity to collect data of marine mammals at different received levels and their behavioral responses and movement relative to the Navy vessel's position.

(*4*) Aerial surveys shall include time with and without test events in order to compare density, geographical distribution and behavioral observations.

(*5*) Behavioral observation methods shall involve three professionally trained marine mammal observers and a pilot. Two observers shall observe behaviors, one with hand-held binoculars and one with the naked eye.

(*6*) Detailed behavioral focal observations of cetaceans shall be recorded including the following variables where possible: species (or to the lowest taxa possible), group size and composition (number of calves, etc.), latitude/longitude, surface and dive durations and times, number and spacing/times of respirations, conspicuous behaviors (e.g., breach, tail slap, etc.), behavioral states, orientation and changes in orientation, estimated group travel speed, inter-individual distances, defecation, social interactions, aircraft speed, aircraft altitude, distance to focal group (using the plane's radar) and any unusual behaviors or apparent reactions.

(B) Vessel Surveys:

(*1*) Vessel surveys shall be designed to maximize detections of any target species near mission activity event for focal follows.

(*2*) Systematic transects shall be used to locate marine mammals. In the course of conducting these surveys, the vessel(s) shall deviate from transect protocol to collect behavioral data particularly if a Navy vessel is visible on the horizon or closer.

(*3*) While the Navy vessels are within view, attempts shall be made to position the dedicated survey vessel in the best possible way to obtain focal follow data in the presence of the Navy mission activities. If Navy vessels are not in view, then the vessel shall begin a systematic line transect surveys within the area to assess marine mammal occurrence and observe behavior.

(*4*) Post-analysis shall focus on how the location, speed and vector of the survey vessel and the location and direction of the sonar source (e.g., Navy surface vessel) relates to the animal.

(*5*) Any other vessels or aircraft observed in the area shall also be documented.

(C) Shore-based Surveys:

(*1*) Shore-based monitors shall observe explosive events that are planned in advance to occur adjacent to nearshore areas where there are elevated coastal structures (e.g., lookout tower at Eglin Air Force Base) or topography, and shall use binoculars or theodolite to augment other visual survey methods.

(*2*) Shore-based surveys of the detonation area and nearby beaches shall be conducted for stranded marine animals following nearshore events. If any distressed, injured or stranded animals are observed, an assessment of the animal's condition (alive, injured, dead, or degree of decomposition) shall be reported immediately to the Navy for appropriate action and the information shall be transmitted immediately to NMFS.

(*3*) If animals are observed prior to or during an explosion, a focal follow of that individual or group shall be conducted to record behavioral responses.

(2) Passive Acoustic Monitoring (PAM):

(i) The Navy shall deploy a stationary, bottom-set hydrophone array in the NSWC PCD Study Area for PAM.

(ii) The array shall be deployed for each of the days the ship is at sea.

(iii) The array shall be able to detect low frequency vocalizations (less than 1,000 Hz) for baleen whales and relatively high frequency vocalizations (up to 30 kHz) for odontocetes.

(iv) These buoys shall be left in place for a long enough duration (e.g., months) that data are collected before, during and outside of mission activities.

(v) Acoustic data collected from the buoys shall be used in order to detect, locate, and potentially track calling whales/dolphins.

(3) Marine Mammal Observers on Navy vessels:

(i) Civilian Marine Mammal Observers (MMOs) aboard Navy vessels shall be used to research the effectiveness of Navy lookouts, as well as for data collection during other monitoring surveys.

(ii) MMOs shall be field-experienced observers that are Navy biologists or contracted observers.

(iii) MMOs shall be placed alongside existing Navy marine observers during a sub-set of RDT&E events.

(iv) MMOs shall inform the Navy marine observer of any marine mammal sighting so that appropriate action may be taken by the chain of command. For less biased data, it is recommended that MMOs schedule their daily observations to duplicate the marine observers' schedule.

(v) MMOs shall monitor for marine mammals from the same height above water as the lookouts (e.g. bridge wings) and as all visual survey teams, and they shall collect the same data collected by Navy marine observers, including but not limited to:

(A) Location of sighting;

(B) Species;

(C) Number of individuals;

(D) Number of calves present, if any;

(E) Duration of sighting;

(F) Behavior of marine animals sighted;

(G) Direction of travel;

(H) Environmental information associated with sighting event including Beaufort sea state, wave height, swell direction, wind direction, wind speed, glare, percentage of glare, percentage of cloud cover; and

(I) When in relation to Navy exercises did the sighting occur (before, during or after detonations/exercise).

(f) Monitoring Report—The Navy shall submit a report annually on September 1 describing the implementation and results (through June 1 of the same year) of the monitoring required in § 218.184(e).

(g) NSWC PCD Comprehensive Report—The Navy shall submit to NMFS a draft report that analyzes and summarizes *all* of the multi-year marine mammal information gathered during sonar and explosive exercises for which individual reports are required in § 218.184 (d–f). This report will be submitted at the end of the fourth year of the rule (November 2012), covering activities that have occurred through June 1, 2012.

(h) The Navy shall respond to NMFS comments on the draft comprehensive report if submitted within 3 months of receipt. The report will be considered final after the Navy has addressed NMFS' comments, or three months after the submittal of the draft if NMFS does not comment by then.

(i) In 2011, the Navy shall convene a Monitoring Workshop in which the Monitoring Workshop participants will be asked to review the Navy's Monitoring Plans and monitoring results and make individual recommendations (to the Navy and NMFS) of ways of improving the Monitoring Plans. The recommendations shall be reviewed by the Navy, in consultation with NMFS, and modifications to the Monitoring Plan shall be made, as appropriate.

§ 218.185 Applications for Letters of Authorization.

To incidentally take marine mammals pursuant to these regulations, the U.S. citizen (as defined by § 216.103 of this chapter) conducting the activity identified in § 218.180(c) (the U.S. Navy) must apply for and obtain either an initial Letter of Authorization in accordance with § 218.186 or a renewal under § 218.187.

§ 218.186 Letters of Authorization.

(a) A Letter of Authorization, unless suspended or revoked, will be valid for a period of time not to exceed the period of validity of this subpart, but must be renewed annually subject to annual renewal conditions in § 218.187.

(b) Each Letter of Authorization will set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact on the species, its habitat, and on the availability of the species for subsistence uses (i.e., mitigation); and

(3) Requirements for mitigation, monitoring and reporting.

(c) Issuance and renewal of the Letter of Authorization will be based on a determination that the total number of marine mammals taken by the activity as a whole will have no more than a negligible impact on the affected species or stock of marine mammal(s).

§ 218.187 Renewal of Letters of Authorization and adaptive management.

(a) A Letter of Authorization issued under § 216.106 and § 218.186 for the activity identified in § 218.180(c) will be renewed annually upon:

(1) Notification to NMFS that the activity described in the application submitted under § 218.185 shall be undertaken and that there will not be a substantial modification to the described work, mitigation or monitoring undertaken during the upcoming 12 months;

(2) Timely receipt of the monitoring reports required under § 218.184(b); and

(3) A determination by the NMFS that the mitigation, monitoring and reporting measures required under § 218.183 and the Letter of Authorization issued under §§ 216.106 and 218.186, were undertaken and will be undertaken during the upcoming annual period of validity of a renewed Letter of Authorization.

(b) If a request for a renewal of a Letter of Authorization issued under §§ 216.106 and 218.187 indicates that a substantial modification to the described work, mitigation or monitoring undertaken during the upcoming season will occur, the NMFS will provide the public a period of 30 days for review and comment on the request. Review and comment on renewals of Letters of Authorization are restricted to:

(1) New cited information and data indicating that the determinations made in this document are in need of reconsideration, and

(2) Proposed changes to the mitigation and monitoring requirements contained in these regulations or in the current Letter of Authorization.

(c) A notice of issuance or denial of a renewal of a Letter of Authorization will be published in the **Federal Register.**

(d) NMFS, in response to new information and in consultation with the Navy, may modify the mitigation or monitoring measures in subsequent LOAs if doing so creates a reasonable likelihood of more effectively accomplishing the goals of mitigation and monitoring set forth in the preamble of these regulations. Below are some of the possible sources of new data that could contribute to the decision to modify the mitigation or monitoring measures:

(1) Results from the Navy's monitoring from the previous year

(either from NSWC PCD Study Area or other locations).

(2) Findings of the Monitoring Workshop that the Navy will convene in 2011 (§ 218.184(i)).

(3) Compiled results of Navy funded research and development (R&D) studies (presented pursuant to the ICMP (§ 218.184(d)).

(4) Results from specific stranding investigations (either from the NSWC PCD Study Area or other locations).

(5) Results from the Long Term Prospective Study described in the preamble to these regulations.

(6) Results from general marine mammal and sound research (funded by the Navy (described below) or otherwise).

(7) Any information which reveals that marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent Letters of Authorization.

§ 218.188 Modifications to Letters of Authorization.

(a) Except as provided in paragraph (b) of this section, no substantive modification (including withdrawal or suspension) to the Letter of Authorization by NMFS, issued pursuant to § 216.106 of this chapter and § 218.186 and subject to the provisions of this subpart shall be made until after notification and an opportunity for public comment has been provided. For purposes of this paragraph, a renewal of a Letter of Authorization under § 218.187, without modification (except for the period of validity), is not considered a substantive modification.

(b) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 218.181(b), a Letter of Authorization issued pursuant to § 216.106 of this chapter and § 218.186 may be substantively modified without prior notification and an opportunity for public comment. Notification will be published in the **Federal Register** within 30 days subsequent to the action.

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